

b6 b7C

From: [REDACTED]
To: [REDACTED]
Date: Thu, Jun 13, 2002 5:38 PM
Subject: Re: Issues for the Director's upcoming testimony

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 12-19-2005 BY 65179/DHM/LP/CWC

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b7C

[REDACTED] per your request

[REDACTED]

b5

[REDACTED]

b5

[REDACTED]

b5

4) The Patriot Act Section 207, (after the initial 120 day order), allows search warrants against "agents of a foreign power" to remain valid for one year. [REDACTED]

[REDACTED]

b5

Had I had more time, I would have provided additional comments but I hope my theme is fairly clear.

SSA [REDACTED]

b6
b7C

>> [REDACTED] 06/12 9:27 AM >>>

Good morning everyone. [REDACTED] was kind enough to allow me to use her computer to reach out to all of you. My name is [REDACTED] I work at the Office of Public and Congressional Affairs (OPCA). Part of my duties is to gather information for the Director, so that he may be prepared when he testifies at Capitol Hill. The Director is going to the Hill on Tuesday (6/18/02).

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~~SECRET~~

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WHERE SHOWN OTHERWISE

Re: Request for Assistance from the CDCs

Page 1

b6

b7C

From: [REDACTED]
To: [REDACTED]
Date: 8/16/02 10:15AM
Subject: Re: Request for Assistance from the CDCs

b2 b7E

DATE: 12-19-2005
CLASSIFIED BY 65179/DMH/LP/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-19-2030

Albany Division:

No other provisions have been used. Thanks. [REDACTED]

b6

b7C

>> [REDACTED] 08/15 12:02 PM >>>

Good morning: Attached is a communication that was sent to you on August 1, 2002, requesting your assistance in obtaining information regarding the Patriot Act in response to a request from Senators Feinstein, Leahy and Kyl for a briefing of their staffers. In particular, the questions posed are how many times have we have used the tools provided by the Patriot Act and if the tools need refinement/tweaking (the tools are listed in the attachment). The briefing is scheduled for August 20. We requested responses by August 14, 2002, so as to give us adequate time to prepare. As of today we have not received responses from you. I know you are extremely busy but it is imperative that we obtain information to respond to the 2 questions posed by the Senators. Congress has specifically requested this information and it is important that we be as comprehensive and accurate as possible in our response. Plus, this is an opportunity to attempt to obtain revisions, if necessary, to better the tools. We need to provide them with statistics and examples to accomplish this.

Please respond to this request by COB tomorrow. Thank you. [REDACTED]

8/22/02

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b7C

FII - responses re: Patriot
Act from the CDCs. [REDACTED]
will be sending you an e-mail.

~~SECRET~~

~~SECRET~~

Re: Request for Assistance from the CDCs

Page 1

b6
From: b7C [REDACTED]
To: [REDACTED]
Date: 8/15/02 4:56PM
Subject: Re: Request for Assistance from the CDCs

b2
b7E [REDACTED]

I was on vacation and out of office. Received this on Tuesday. [REDACTED]

DATE: 12-19-2005
CLASSIFIED BY 65179/DME/LP/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-19-2030

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Hope this helps. Any questions beep me Friday [REDACTED] will be doing legal instruction for several squads in [REDACTED] b2 b7E

>>> [REDACTED] 8/15 12:02 PM >>>

Good morning: Attached is a communication that was sent to you on August 1, 2002, requesting your assistance in obtaining information regarding the Patriot Act in response to a request from Senators Feinstein, Leahy and Kyl for a briefing of their staffers. In particular, the questions posed are how many times have we have used the tools provided by the Patriot Act and if the tools need refinement/tweaking (the tools are listed in the attachment). The briefing is scheduled for August 20. We requested responses by August 14, 2002, so as to give us adequate time to prepare. As of today we have not received responses from you. I know you are extremely busy but it is imperative that we obtain information to respond to the 2 questions posed by the Senators. Congress has specifically requested this information and it is important that we be as comprehensive and accurate as possible in our response. Plus, this is an opportunity to attempt to obtain revisions, if necessary, to better the tools. We need to provide them with statistics and examples to accomplish this.

Please respond to this request by COB tomorrow. Thank you. [REDACTED]

~~SECRET~~

(S)

(S)

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b6

b7C

~~SECRET~~

Re: Request for Assistance from the CDCs

Page 1

b6

From:

b7C

o:

Date:

8/16/02 5:03PM

Subject:

Re: Request for Assistance from the CDCs

b2 b7E

b1

b2

b7E

DATE: 12-19-2005

CLASSIFIED BY 65179DMH/LPCWC

REASON: 1.4 (C)

DECLASSIFY ON: 12-19-2030

In this e-mail, thanks.

>>> 08/15 11:02 AM >>>

Good morning: Attached is a communication that was sent to you on August 1, 2002, requesting your assistance in obtaining information regarding the Patriot Act in response to a request from Senators Feinstein, Leahy and Kyl for a briefing of their staffers. In particular, the questions posed are how many times have we have used the tools provided by the Patriot Act and if the tools need refinement/tweaking (the tools are listed in the attachment). The briefing is scheduled for August 20. We requested responses by August 14, 2002, so as to give us adequate time to prepare. As of today we have not received responses from you. I know you are extremely busy but it is imperative that we obtain information to respond to the 2 questions posed by the Senators. Congress has specifically requested this information and it is important that we be as comprehensive and accurate as possible in our response. Plus, this is an opportunity to attempt to obtain revisions, if necessary, to better the tools. We need to provide them with statistics and examples to accomplish this.

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b7C

Please respond to this request by COB tomorrow. Thank you.

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~~SECRET~~

[REDACTED] Re: Request for Assistance from the CDCs

Page 1

ALL INFORMATION CONTAINED
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DATE: 12-19-2005
CLASSIFIED BY 65179/DHM/LP/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-19-20301

b6

b7C

From: [REDACTED]
To: [REDACTED]
Date: 8/15/02 5:29PM
Subject: Re: Request for Assistance from the CDCs

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b7C

b2 b7E

b2

b7E

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b7C

>>> [REDACTED] 08/15/02 12:02PM >>>

Good morning: Attached is a communication that was sent to you on August 1, 2002, requesting your assistance in obtaining information regarding the Patriot Act in response to a request from Senators Feinstein, Leahy and Kyl for a briefing of their staffers. In particular, the questions posed are how many times have we have used the tools provided by the Patriot Act and if the tools need refinement/tweaking (the tools are listed in the attachment). The briefing is scheduled for August 20. We requested responses by August 14, 2002, so as to give us adequate time to prepare. As of today we have not received responses from you. I know you are extremely busy but it is imperative that we obtain information to respond to the 2 questions posed by the Senators. Congress has specifically requested this information and it is important that we be as comprehensive and accurate as possible in our response. Plus, this is an opportunity to attempt to obtain revisions, if necessary, to better the tools. We need to provide them with statistics and examples to accomplish this.

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b7C

Please respond to this request by COB tomorrow. Thank you. [REDACTED]

b6

CC: [REDACTED]

b7C

~~SECRET~~

(S)

~~SECRET~~

Re: Request for Assistance from the CDCs

Page 1

ALL INFORMATION CONTAINED
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b6
From: b7C
To: [REDACTED]
Date: 8/15/02 3:36PM
Subject: Re: Request for Assistance from the CDCs

b2
b7E [REDACTED]

Hi [REDACTED] b6 b7C

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[REDACTED] (S)
I am currently TDY in the National Press Office this week and at least next as well. I will stop to say hello
- so be prepared to hide! Thanks [REDACTED] b6 b7C

>>> [REDACTED] 08/15 12:02 PM >>>

Good morning: Attached is a communication that was sent to you on August 1, 2002, requesting your assistance in obtaining information regarding the Patriot Act in response to a request from Senators Feinstein, Leahy and Kyl for a briefing of their staffers. In particular, the questions posed are how many times have we have used the tools provided by the Patriot Act and if the tools need refinement/tweaking (the tools are listed in the attachment). The briefing is scheduled for August 20. We requested responses by August 14, 2002, so as to give us adequate time to prepare. As of today we have not received responses from you. I know you are extremely busy but it is imperative that we obtain information to respond to the 2 questions posed by the Senators. Congress has specifically requested this information and it is important that we be as comprehensive and accurate as possible in our response. Plus, this is an opportunity to attempt to obtain revisions, if necessary, to better the tools. We need to provide them with statistics and examples to accomplish this.

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b7C

Please respond to this request by COB tomorrow. Thank you. [REDACTED]

b6
b7C

CC: [REDACTED]

DATE: 12-19-2005
CLASSIFIED BY 65179/DMH/LP/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-19-2030

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[REDACTED] Re: Request for Assistance from the CDCs

Page 1

DATE: 12-19-2005
CLASSIFIED BY 65179/DME/LE/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-19-2030

b6

b7C

From: [REDACTED]
To: [REDACTED]
Date: 8/19/02 11:27AM
Subject: Re: Request for Assistance from the CDCs

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b7E

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b7E

[REDACTED]

(S)

b6 b7C

>>> [REDACTED] 8/15 12:02 PM >>>

Good morning: Attached is a communication that was sent to you on August 1, 2002, requesting your assistance in obtaining information regarding the Patriot Act in response to a request from Senators Feinstein, Leahy and Kyl for a briefing of their staffers. In particular, the questions posed are how many times have we have used the tools provided by the Patriot Act and if the tools need refinement/tweaking (the tools are listed in the attachment). The briefing is scheduled for August 20. We requested responses by August 14, 2002, so as to give us adequate time to prepare. As of today we have not received responses from you. I know you are extremely busy but it is imperative that we obtain information to respond to the 2 questions posed by the Senators. Congress has specifically requested this information and it is important that we be as comprehensive and accurate as possible in our response. Plus, this is an opportunity to attempt to obtain revisions, if necessary, to better the tools. We need to provide them with statistics and examples to accomplish this.

Please respond to this request by COB tomorrow. Thank you. [REDACTED]

b6

b7C

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~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 12-19-2005 BY 65179 dmh/lp/cwc

b6
From: [REDACTED]
To: [REDACTED]
Date: 8/16/02 4:04PM
Subject: Request for CDC Assistance re: Patriot Act statistics

b2
[REDACTED]
b7E

Dear [REDACTED],
Per your request [REDACTED] canvassed its Counterterrorism Squads to provide information regarding the following two questions: b2
b7E

- 1) How many times have the squads used the tools provided by the Patriot Act
- 2) Do the Patriot Act tools need refinement/tweaking

The response regarding Question #1:

-Squads made extensive use of the expanded ability to share criminal investigative information under Section 203(d) to enhance liason with local, state, and other federal agencies. The willingness of agencies to participate in Joint Terrorism Task Forces was greatly aided by the ability to share information.

-Squads used Section 214 with the changed standard of "relevance to an ongoing investigation" to obtain pen register and trap and trace orders more readily.

The response regarding Question #2:

-The squads do not have any input to add at this time..

CC: [REDACTED]

b6
b7C

~~SECRET~~

Re: Request for Assistance from the CDCs

Page 1

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b7C

DATE: 12-19-2005

CLASSIFIED BY 65179DMH/LP/CWC

REASON: 1.4 (C 05-CV-0845)

DECLASSIFY ON: 12-19-2030

From:

To:

Date: 8/15/02 12:33PM

Subject: Re: Request for Assistance from the CDCs

I sent response to I think

b6

b7C

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>> 8/15 12:02 PM >>>

Good morning: Attached is a communication that was sent to you on August 1, 2002, requesting your assistance in obtaining information regarding the Patriot Act in response to a request from Senators Feinstein, Leahy and Kyl for a briefing of their staffers. In particular, the questions posed are how many times have we have used the tools provided by the Patriot Act and if the tools need refinement/tweaking (the tools are listed in the attachment). The briefing is scheduled for August 20. We requested responses by August 14, 2002, so as to give us adequate time to prepare. As of today we have not received responses from you. I know you are extremely busy but it is imperative that we obtain information to respond to the 2 questions posed by the Senators. Congress has specifically requested this information and it is important that we be as comprehensive and accurate as possible in our response. Plus, this is an opportunity to attempt to obtain revisions, if necessary, to better the tools. We need to provide them with statistics and examples to accomplish this.

Please respond to this request by COB tomorrow. Thank you.

b6

b7C

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~~SECRET~~

[REDACTED] Re: Message to all CDCs/ADCs

Page 1

ALL INFORMATION CONTAINED
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b6
b7C
From: [REDACTED]
To: [REDACTED]
Date: 8/12/02 3:39PM
Subject: Re: Message to all CDCs/ADCs

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b7E

[REDACTED]

(S)

[REDACTED]

[REDACTED]

>>> 08/01 9:06 AM >>>

[REDACTED] Please forward the attached to all CDCs/ADCs. Thanks. [REDACTED]

b6

b7C

DATE: 12-19-2005
CLASSIFIED BY 65179DMH/LP/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-19-2030

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 12-19-2005 BY 65179 DMH/LP/CWC

b6
From: [REDACTED]
To: b7C
Date: 8/16/02 5:18PM
Subject: Re: Request for Assistance from the CDCs

b2
b7E

b2 [REDACTED] Sorry for the delay in responding, I don't recall receiving the August 1 e-mail. I've queried the [REDACTED]
b7E [REDACTED] Supervisors and all have responded negatively. That is, the [REDACTED] has not taken
b6 advantage of the provisions of the Patriot Act yet. All Supervisors recognize the importance of these
provisions and will not hesitate to take advantage when the need arises. [REDACTED]

b6 >> [REDACTED] 08/15/02 12:02PM >>>

b7C Good morning: Attached is a communication that was sent to you on August 1, 2002, requesting your assistance in obtaining information regarding the Patriot Act in response to a request from Senators Feinstein, Leahy and Kyl for a briefing of their staffers. In particular, the questions posed are how many times have we have used the tools provided by the Patriot Act and if the tools need refinement/tweaking (the tools are listed in the attachment). The briefing is scheduled for August 20. We requested responses by August 14, 2002, so as to give us adequate time to prepare. As of today we have not received responses from you. I know you are extremely busy but it is imperative that we obtain information to respond to the 2 questions posed by the Senators. Congress has specifically requested this information and it is important that we be as comprehensive and accurate as possible in our response. Plus, this is an opportunity to attempt to obtain revisions, if necessary, to better the tools. We need to provide them with statistics and examples to accomplish this.

Please respond to this request by COB tomorrow. Thank you. [REDACTED]

b6
b7C

~~SECRET~~

[REDACTED] Re: Message to all CDCs/ADCs

Page 1

ALL INFORMATION CONTAINED
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b6

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b7E

From:

To:

Date:

Subject:

8/15/02 4:48PM

Re: Message to all CDCs/ADCs

b1

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b7E

Hi [REDACTED]

[REDACTED]

(S)

Thanks,

[REDACTED]

>>>

8/01 8:06 AM >>>

Please forward the attached to all CDCs/ADCs. Thanks [REDACTED]

b6

b7C

DATE: 12-19-2005
CLASSIFIED BY 65179/DHM/LP/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-19-2030

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 12-13-2005 BY 65179 DMH/LP/CWC

b6
From: [REDACTED]
To: b7C [REDACTED]
Date: 8/19/02 10:06AM
Subject: Re: Request for Assistance from the CDCs
[REDACTED]

[REDACTED] b2
b7E

Sorry for the delayed response. We were having trouble getting a response from the squads that make use of these provisions of the Patriot Act, but for what it is worth, here is what we finally got.

The most helpful provisions of the Act and the ones used most regularly are the nationwide execution of search warrants and the ability to use the same 2703(d) order for multiple companies. The squad could not provide an exact number but said the ability to serve the same court order on multiple companies is used almost every time they serve an order because it is normal to find the first company served is not in fact the ultimate service provider.

Both CT squads were of the opinion the most useful addition would be administrative subpoena authority in both computer crime cases and for phone records in terrorism cases at a minimum.

[REDACTED] b2
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[REDACTED] Re: Fwd: Message to all CDCs/ADCs

Page 1

DATE: 12-19-2005
CLASSIFIED BY 65179/DMH/LP/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-19-2030

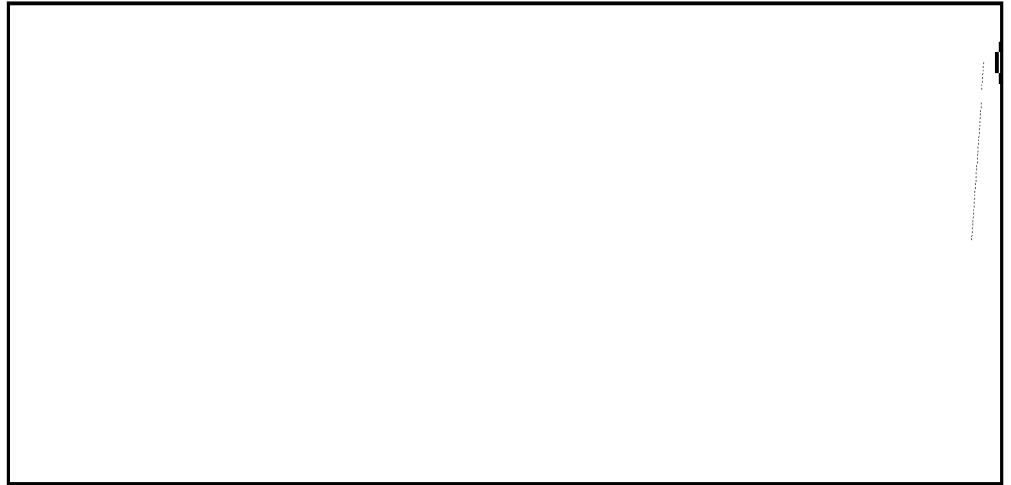
ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

From: b6
To: [REDACTED]
Date: b7C
Subject:

8/13/02 4:29PM
Re: Fwd: Message to all CDCs/ADCs

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b7E

[REDACTED] I hope the following information is helpful regarding the "tools" the [REDACTED] has
used post Patriot Act:



(S)

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I hope this is what your looking for! Let me know if you need additional information. Thanks!!! [REDACTED]

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>>> [REDACTED] 08/13 3:26 PM >>>

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7/29/2002

To: SAC [REDACTED]

b6

From: CDC [REDACTED]

b7C

Subject: SAC's Conference

DATE: 12-19-2005
CLASSIFIED BY 65179/DMH/LP/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-19-2030

As we discussed, I'm providing you this information for the
upcoming SAC's conference. [REDACTED]

b5

[REDACTED]

b5

[REDACTED]

b5

[REDACTED]

b5

Enclosed are the following which provide examples to help you
make your case:

Enclosure 1: My memo to OPCA, dated 6/14/2002. The memo sets
out ten changes that would greatly improve matters.

[REDACTED]

(S)

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(S)

[Redacted]

(S)

[Redacted]

(S)

[Redacted]

(S)

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[Redacted]

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[Redacted]

b5

[Redacted]

Enclosure 1

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ALL INFORMATION CONTAINED
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6/14/2002

DATE: 12-19-2005
CLASSIFIED BY 65179/DMH/LP/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-19-2030

b6

To: , SSA [REDACTED]

b7C

From: CDC [REDACTED]

b2

Subject: Issues for the Director's Upcoming Testimony

b7E

[REDACTED]

[REDACTED]

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[REDACTED] (S)

[REDACTED]

[REDACTED]

~~SECRET~~

b5

[REDACTED]

Enclosure 1

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[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

b5

[REDACTED]

[REDACTED]

A few years ago I personally made some of these legislative
recommendations to Director Freeh when he visited [REDACTED]

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b7E

[REDACTED]

Enclosure 2

DATE: 12-14-2005
CLASSIFIED BY 65179 /DMH/LP/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-14-2030

~~SECRET~~

ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

7/29/2002

b2

To: CDC [REDACTED]

b7E

From: SA [REDACTED]

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b7C

Subject: [REDACTED]

(S)

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05-CV-0845

(S)

Enclosure 2

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Enclosure 3

~~SECRET~~

DATE: 12-14-2005
CLASSIFIED BY 65179/DMH/LP/CWC
REASON: 1.4 (C 05-CV-0845)
DECLASSIFY ON: 12-14-2030

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07/29/2002

b6
b7C

To: CDC
From: SA
Subject: [REDACTED]

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(S)

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(S)

(S)

(S)

(S)

(S)

(S)

(S)

* Attached Documents

~~SECRET~~

Enclosure 3

~~SECRET~~

[redacted] Briefing on the Patriot Act

Page 1

b6
b7C

From: [redacted]
To: [redacted]
Date: 8/1/02 10:46AM
Subject: Briefing on the Patriot Act
[redacted]

b2
b7E

ALL INFORMATION CONTAINED
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DATE: 12-14-2005
CLASSIFIED BY 65179 DMH/LP/CWC
REASON: 1.4 (C 05-CV-0845)
DECLASSIFY ON: 12-14-2030.

In my ever vigilant attempt to be responsive to inquiries on the Patriot Act, I have been tracking its usage and asking questions as best I can. The following is a summary of how we have used the Act and where tweaking is needed.

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Usage -

[redacted] (S)

(S)

[redacted]

[redacted] (S)

[redacted] (S)

Tweaking -

b5

[redacted]

Hope this helps.

[redacted] b6
b7C

~~SECRET~~

~~SECRET~~

[REDACTED] Re: Request for CDC assistance

Page 1

DATE: 12-14-2005
CLASSIFIED BY 65179 DMH /LP/CWC
REASON: 1.4 (C 05-CV-0845)
DECLASSIFY ON: 12-14-2030

From: [REDACTED]
To: [REDACTED]
Date: 8/16/02 12:01PM
Subject: Re: Request for CDC assistance

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Sorry for deleting [REDACTED] email !!! Here's the relevant information. I did not see from your email in what format you wanted this but here it is in a nut shell (I can reformat it and provide greater detail if you need it):

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b7C
b7E

[REDACTED]

(S)

>>> [REDACTED] 08/14 5:07 PM >>>

[REDACTED] As discussed, see attached. Thanks [REDACTED]

~~SECRET~~

~~SECRET~~

[REDACTED] Re: Request for Assistance from the CDCs

Page 1

b2

b7E

b6

b7C

From:

To:

Date:

Subject:

8/15/02 2:03PM

Re: Request for Assistance from the CDCs

DATE: 12-14-2005

CLASSIFIED BY 65179 DMH/LP/CWC

REASON: 1.4 (C 05-CV-0845)

DECLASSIFY ON: 12-14-2030

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The overall perception about the changes in the Patriot Act:

(S)

b5

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b5

>>> [REDACTED] 08/15/02 09:02AM >>> b2 b7E

Good morning: Attached is a communication that was sent to you on August 1, 2002, requesting your assistance in obtaining information regarding the Patriot Act in response to a request from Senators Feinstein, Leahy and Kyl for a briefing of their staffers. In particular, the questions posed are how many times have we have used the tools provided by the Patriot Act and if the tools need refinement/tweaking (the tools are listed in the attachment). The briefing is scheduled for August 20. We requested responses by August 14, 2002, so as to give us adequate time to prepare. As of today we have not received responses from you. I know you are extremely busy but it is imperative that we obtain information to respond to the 2 questions posed by the Senators. Congress has specifically requested this information and it is important that we be as comprehensive and accurate as possible in our response. Plus, this is an opportunity to attempt to obtain revisions, if necessary, to better the tools. We need to provide them with statistics and examples to accomplish this.

Please respond to this request by COB tomorrow. Thank you.

[REDACTED] b6 b7C

~~SECRET~~

b2

b7E

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b7C

05-CV-0845

From: [redacted]
To: [redacted]
Date: 8/15/02 5:17PM
Subject: Patriot Act response

1) NSD-2 is using the increased NSL authority to obtain and identify subscribers of phone numbers in touch with our FFI subjects this is a great enhancement of our FCI cases; we have not had occasion to use 202, 203 206, 207, 209, 210, 211, 212, 213, 214, 217, 218, 219, 220. For 216 we have trap/trace authority now on our FISAs, but I thought that happened before Patriot Act, most of the problem with this is that we can only [redacted]

b2

b7E

[redacted] For 215 we have not yet come across a need for it, although one of our current cases may be our first attempt to use it (separately I sent you a question which will impact our decision to use it, so it may be an issue for others---i.e. the security of using it.)

2) It seems that basic investigation such as obtaining business records, which can be done with admin subpoenas in criminal cases, is made unnecessarily cumbersome when requiring a probable cause FISA standard for CI/CT basic investigation. Not only that, but making the request something other than an administrative subpoena, only heightens its profile to the receiving company, who then knows that it is not a routine criminal investigation.

b6

b7C

PS [redacted] is your first name misspelled in e-mail address [redacted] or in LA directory [redacted]

[redacted]

[redacted]

[Redacted]

Fwd: Re: PATRIOT ACT FEEDBACK

Page 1

b6

b7C

Fr.....

To:

8/15/02 6:20PM

Date:

Subject:

Fwd: Re: PATRIOT ACT FEEDBACK

ALL INFORMATION CONTAINED
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DATE 12-19-2005 BY 65179/DMH/LP/CWC

1) How are we using the tools provided by the Patriot Act?

[Redacted]

b5

2) Do these tools require further refinement/tweaking and how?

[Redacted]

b5

[Redacted]

Office
Pager
Nextel

[Redacted]

b2

b6

b7C

b6
b7C

b2
b7E
b5

If you need more, or clarification...let me know [REDACTED] b6
b7C

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DATE 12-19-2005 BY 65179/DMH/LP/CWC

b6

b7C

From:
To:
Date: 8/15/02 8:51PM
Subject: Patriot Act Response

Section 210 updated section 2703(c) and expanded the narrow list of records that we could obtain with a subpoena. The new subsection 2703(c)(2) includes "records of session times and durations," as well as "any temporarily assigned network address." In the Internet context, such records include the Internet Protocol (IP) address assigned by the provider to the customer or subscriber for a particular session, as well as the remote IP address from which a customer connects to the provider. This capability has greatly increase our ability to rapidly identify computer criminals and trace their Internet connections.

The section also clarifies the we can use a subpoena to obtain the "means and source of payment" that a customer uses to pay for his or her account with a communications provider, "including any credit card or bank account number." This had been a problem in the past and is particularly valuable in identifying the users of Internet services where a company does not verify its users' biographical information.

b5

Thanks,

(voice)
(fax)
(mobile)
(pager)

b2

b6

b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

b6

b7C

~~SECRET~~

DATE: 12-14-2005
CLASSIFIED BY 65179 DMH/LP/CWC
REASON: 1.4 (C 05-CV-0845)
DECLASSIFY ON: 12-14-2030

From: [REDACTED]
To: [REDACTED]
Date: 8/15/02 7:44PM
Subject: patriot act feedback

b1

b6

b7C

[REDACTED] I sent the info to [REDACTED]
We did not use any of the provisions in Counterintelligence cases. I'd like more info regarding the Title
50 changes or enhancements for future reference. Couldn't find any documentation here.
Please call if you need more information or clarification.

(S)

~~SECRET~~

FROM :

~~SECRET~~

FAX NO. :

Aug. 15 2002 04:38PM P2

DATE: 12-19-2005

CLASSIFIED BY 65179 DMH/LP/CWC

REASON: 1.4 (C

05-CV-0845)

DECLASSIFY ON: 12-19-2030

To: ADC

Fm: SSA

b6

b7C

Re: Routing Slip and attachment dated 8/13/03

ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

b1

b7E

b2

(S)

(S)

(S)

~~SECRET~~

~~SECRET~~

FAX NO. :

Aug. 16 2002 12:37PM P2

 Patriot Act


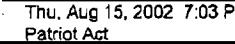
Page 1

DATE: 12-19-2005
CLASSIFIED BY 65179/DMH/LP/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-19-2030,

b6

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HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

b7C

From: 
To: 
Date: Thu, Aug 15, 2002 7:03 PM
Subject: Patriot Act

b1

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b7C

b2

b7E

Thanks 

(S)

~~SECRET~~

FROM :

~~SECRET~~

FAX NO. :

Aug. 16 2002 12:37PM P3

[REDACTED] b2

b7E

Investigative tools under Title 2 of the Patriot Act:

2) Enhanced Surveillance Procedures, Section 203(d), Authority to share criminal investigative information (50 U.S.C. §401a)

b1

b2

b7E

[REDACTED]

(S)

This is the first time the Patriot Act has been used in an investigation on [REDACTED] and time will be needed to evaluate the results of the Act.

b2

b7E

~~SECRET~~

FROM :

~~SECRET~~

FAX NO. :

Aug. 15 2002 04:39PM P3

b2 b2E

Responses to Patriot Act Questionnaire

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b7E

(S)

~~SECRET~~

~~SECRET~~

[REDACTED] Re: Request for Assistance from the CDCs

Page 1

ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

b6

From:

b7C

To:

Date:

8/15/02 12:15PM

Subject:

Re: Request for Assistance from the CDCs

b2 b7E

b1

b2

b7E

(S)

DATE: 12-19-2005

CLASSIFIED BY 65179DMH/LP/CWC

REASON: 1.4 (C)

DECLASSIFY ON: 12-19-2030

b6

b7C

>> [REDACTED] 08/15 11:02 AM >>>

Good morning: Attached is a communication that was sent to you on August 1, 2002, requesting your assistance in obtaining information regarding the Patriot Act in response to a request from Senators Feinstein, Leahy and Kyl for a briefing of their staffers. In particular, the questions posed are how many times have we have used the tools provided by the Patriot Act and if the tools need refinement/tweaking (the tools are listed in the attachment). The briefing is scheduled for August 20. We requested responses by August 14, 2002, so as to give us adequate time to prepare. As of today we have not received responses from you. I know you are extremely busy but it is imperative that we obtain information to respond to the 2 questions posed by the Senators. Congress has specifically requested this information and it is important that we be as comprehensive and accurate as possible in our response. Plus, this is an opportunity to attempt to obtain revisions, if necessary, to better the tools. We need to provide them with statistics and examples to accomplish this.

Please respond to this request by COB tomorrow. Thank you.

CC:

b6

b7C

~~SECRET~~

b6

b7C

[REDACTED] b2

b7E

From: [REDACTED]
To: [REDACTED]
Date: 8/1/02 10:59AM
Subject: Re Patriot Act tools

Regarding #11 on your list canvassing on use of the Patriot Act tools, which allows us to get a court order for certain business records for foreign intelligence purposes, I had tried to check a couple weeks ago if NSLU or OGC had produced a sample court order (kind of like they did with the NSL letters), but couldn't find one. It looks like the new provision allows us to go to certain Magistrate judges to obtain this order, but I'm not sure if authority has been delegated to SACs- I guess if SACs don't have the authority to seek this kind of court order, then the field doesn't need a sample. This is just a question and doesn't involve any tweaking of the provision. Thanks!

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DATE 12-19-2005 BY 65179/DMH/LP/CWC

b6
From: b7C [redacted]
To: [redacted]
Date: 8/14/02 7:00PM
Subject: Re: Message to all CDCs/ADCs

[redacted] b2
b7E

b2 [redacted] survey produced negative results.

b7E [redacted] Thanks

b6 [redacted]

b7C

>>> [redacted] 08/01 8:06 AM >>>
[redacted] - Please forward the attached to all CDCs/ADCs. Thanks. [redacted]

b6
b7C

ALL INFORMATION CONTAINED
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DATE 12-19-2005 BY 65179/DMH/LP/CWC 05-CV-0045

[redacted] b2 b7E

From: [redacted]
To: b6 [redacted]
Date: 8/16/02 5:48PM
Subject: b7C Re: Request for Assistance from the CDCs

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 12-19-2005 BY 65179/DMH/LP/CWC 05-CV-0845

b2 [redacted]
b7E [redacted] CDC [redacted] asked me to reply to your email today. After speaking with supervisors
b6 and agents assigned to our three terrorism squads in Newark, it seems that the PATRIOT Act has had
only a light impact on terrorism investigations here.

b7C Agents have found the following to be beneficial:

b5 [redacted]

Other than these benefits, agents have not experienced any difference in the way they are conducting investigations. [redacted]

b5 [redacted]

b5 [redacted]

b6

Re: Request for Assistance from the CDCs

Page 2

b7C

ALL INFORMATION CONTAINED
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DATE 12-19-2005 BY 65179 DMH/LE/CWC

05CV-0845

b5

If you need any further information, or if I can help in any way, let me know.

b2

Thanks

ADC

b7E

b6

>>> 08/15 12:02 PM >>>

b7C

Good morning: Attached is a communication that was sent to you on August 1, 2002, requesting your assistance in obtaining information regarding the Patriot Act in response to a request from Senators Feinstein, Leahy and Kyl for a briefing of their staffers. In particular, the questions posed are how many times have we have used the tools provided by the Patriot Act and if the tools need refinement/tweaking (the tools are listed in the attachment). The briefing is scheduled for August 20. We requested responses by August 14, 2002, so as to give us adequate time to prepare. As of today we have not received responses from you. I know you are extremely busy but it is imperative that we obtain information to respond to the 2 questions posed by the Senators. Congress has specifically requested this information and it is important that we be as comprehensive and accurate as possible in our response. Plus, this is an opportunity to attempt to obtain revisions, if necessary, to better the tools. We need to provide them with statistics and examples to accomplish this.

Please respond to this request by COB tomorrow. Thank you.

CC:

b6

b7C

~~SECRET~~

[REDACTED] Re: Request for Assistance from the CDCs

Page 1

b6

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b7E

DATE: 12-19-2005

CLASSIFIED BY 65179 DMH/LP/CWC

REASON: 1.4 (C

05-CV-0845)

DECLASSIFY ON: 12-19-2030

From:

To:

Date:

Subject:

8/15/02 5:46PM

Re: Request for Assistance from the CDCs

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b7C

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WHERE SHOWN OTHERWISE

(S)

(S)

>>> [REDACTED] 08/15 12:02 PM >>> b6 b7C

Good morning: Attached is a communication that was sent to you on August 1, 2002, requesting your assistance in obtaining information regarding the Patriot Act in response to a request from Senators Feinstein, Leahy and Kyl for a briefing of their staffers. In particular, the questions posed are how many times have we have used the tools provided by the Patriot Act and if the tools need refinement/tweaking (the tools are listed in the attachment). The briefing is scheduled for August 20. We requested responses by August 14, 2002, so as to give us adequate time to prepare. As of today we have not received responses from you. I know you are extremely busy but it is imperative that we obtain information to respond to the 2 questions posed by the Senators. Congress has specifically requested this information and it is important that we be as comprehensive and accurate as possible in our response. Plus, this is an opportunity to attempt to obtain revisions, if necessary, to better the tools. We need to provide them with statistics and examples to accomplish this.

Please respond to this request by COB tomorrow. Thank you [REDACTED]

b6 b7C

~~SECRET~~

~~SECRET~~

Patriot Act

Page 1

DATE: 12-19-2005
CLASSIFIED BY 65179 DMH/LP/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-19-2030

b6

b7C

From: [REDACTED]
To: [REDACTED]
Date: 8/15/02 2:50PM
Subject: Patriot Act

b2

b7E

You're right. We are busy. I hope this is what you needed.

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b6 b7C

Part 2: Enhanced Surveillance Procedures, Section 203(d), Authority to share criminal investigative information (50 U.S.C. Section 401a):

Investigators in [REDACTED] have benefited from this section during the investigation of a 288B case. Previously, we would not have been permitted to share intelligence information gathered during the course of the 288B investigation. Similarly, we would not have received the benefit from Grand Jury information obtained from the criminal side of the house. This prohibition would have severely hampered our ability to investigate both the intelligence and criminal cases on our subject in this very complex case.

b2

b7E

We also would have had much more difficulty in obtaining computers from our subject's potential victims because of the prohibition against information sharing. Due to the recent changes, however, we were able to share information with other Federal law enforcement, intelligence, immigration, national defense and national security officials who can help us in accomplishing our goals.

Part 6: Enhanced Surveillance Procedures, Section 210, Scope of Subpoenas for Electronic Evidence (18 U.S.C. 2703(c)(2):

(S)

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Part 7: Enhance Surveillance Procedures, Section 211, Clarifying the Scope of the Cable Act (47 U.S.C. 551, 18 U.S.C. 2510, 18 U.S.C. 2701, and 18 U.S.C. 3121):

b7E

(S)

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~~SECRET~~

(S)

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b7E

~~SECRET~~

 Patriot Act

b6

Page 2

b7C

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Part 11: Enhanced Surveillance Procedures, Section 215, Access to Records and other items under the
FISA (50 U.S.C. 1861):

DATE: 12-19-2005
CLASSIFIED BY 65179/DMH/LP/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-19-2030



(S)

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[redacted] CDC Request re Patriot Act Enhancements

Page 1

b6

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b7E

DATE: 12-19-2005
CLASSIFIED BY 65179/DMH/LP/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-19-2030

From: [redacted]
To: [redacted]
Date: 8/19/02 2:53PM
Subject: CDC Request re Patriot Act Enhancements

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I returned today after a prolonged absence. Here is a brief narrative response as to what provisions have been used in some manner since the passage of the Act. If not listed, the provision has not been employed yet, to my knowledge. This is less than precise, but it's something.

Section 203(d) [sharing of info]: We have an active JTTF, which includes representatives of INS and Customs, and this provision has facilitated the appropriate sharing of info.

Section 210 [scope of subpoenas for electronic evidence]: Our GJ subpoenas commonly incorporate the new language, and it is of course especially relevant when they are directed to ISPs.

Section 213 [delayed notice of execution of SWI] [redacted]

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Section 214 [redacted]

(S)

b1 b2 b7E

Section 216 [title 18 pens]: We have drafted many of the pens, including pens directed to ISPs, and have incorporated the revisions. Helpful.

As some of our international and domestic case develop, I fully expect [redacted] will make use of the other provisions.

b2
b7E

[redacted] b6

b7C

~~SECRET~~

~~SECRET~~

[redacted] Patriot Act

Page 1

b6

b7C

b2

b7E

DATE: 12-19-2005
CLASSIFIED BY 65179 DMH /LP/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-19-2030

From: [redacted]
To: [redacted]
Date: 8/19/02 11:08AM
Subject: Patriot Act

[redacted] Sorry for the late response (everyone seems to be on vacation, including me). Anyway, nothing of note here regarding investigative tools under the Patriot Act.

1. We are now seeking a FISA using the extended duration from Section 207. The agents feel the new time limits are a big help.

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(S)

(S)

(S)

(S)

(S)

(S)

Hope this helps.

[redacted] b6

b7C

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~~SECRET~~

DATE: 12-19-2005
CLASSIFIED BY 65179DMH/LP/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-19-2030

Patriot Act

Page 1

~~SECRET~~

b6
From: b7C [redacted]
To: [redacted]
Date: 8/15/02 3:04PM
Subject: Patriot Act

b2 [redacted]
b7E ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

b2 b7E The following is [redacted] response to the questions posed in your August 1, 2002 request for information:

1) How are we using the tools provided by the Patriot Act?

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b7E

[redacted] (S)

2) Do these tools require further refinement/tweaking and how?

[redacted] does not have any suggestions on refinement or tweaking of the Patriot Act. b2
b7E

[redacted]

CC: b6
b7C
b2

[redacted]

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~~SECRET~~

~~SECRET~~

DATE: 12-19-2005
CLASSIFIED BY 65178DMH /LP/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-19-2030

Re: Request for Assistance from the CDCs

Page 1

05-CV-0845

b6

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b7C

b7E

From:

To:

Date:

Subject:

8/15/02 12:26PM

Re: Request for Assistance from the CDCs

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b7C

b7E

(S)

(S)

b6 b7C

>>> 08/15 9:02 AM >>>

Good morning: Attached is a communication that was sent to you on August 1, 2002, requesting your assistance in obtaining information regarding the Patriot Act in response to a request from Senators Feinstein, Leahy and Kyl for a briefing of their staffers. In particular, the questions posed are how many times have we have used the tools provided by the Patriot Act and if the tools need refinement/tweaking (the tools are listed in the attachment). The briefing is scheduled for August 20. We requested responses by August 14, 2002, so as to give us adequate time to prepare. As of today we have not received responses from you. I know you are extremely busy but it is imperative that we obtain information to respond to the 2 questions posed by the Senators. Congress has specifically requested this information and it is important that we be as comprehensive and accurate as possible in our response. Plus, this is an opportunity to attempt to obtain revisions, if necessary, to better the tools. We need to provide them with statistics and examples to accomplish this.

Please respond to this request by COB tomorrow. Thank you.

b6

b7C

~~SECRET~~

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HEREIN IS UNCLASSIFIED
DATE 12-19-2005 BY 65179/DMH LP/CWC

[REDACTED] Re: Fwd: Message to all CDCs/ADCs

Page 1

b6

b7C

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b7E

From: [REDACTED]
To: [REDACTED]
Date: 8/9/02 9:20AM
Subject: Re: Fwd: Message to all CDCs/ADCs

After querying all agents, I have (incredibly) no use to report.

b6

[REDACTED] >>> 8/01 9:10 AM >>>

b7C

Please see attached message from UC [REDACTED] Please respond directly to [REDACTED]

Thank you.

~~SECRET~~

Patriot Act use ...

Page 1

b6

b7C

From: [REDACTED]
To: [REDACTED]
Date: 8/9/02 1:23PM
Subject: Patriot Act use ...

I originally reported that [REDACTED] had no input. Well, that changed. Here it is:

b2

(S)

b7E

Section 207

Section 214

b1

b2

b7E

Section 215

b1

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b7C

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DATE: 12-19-2005
CLASSIFIED BY 65179 DMH/LP/CWC
REASON: 1.4 (C 05--CV-0845)
DECLASSIFY ON: 12-19-2030

(S)

(S)

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 12-19-2005 BY 65179 DMH/LP/CWC

b6

b7C

From: [REDACTED]
To: [REDACTED]
Date: 8/19/02 11:14AM
Subject: Patriot Act Provisions

[REDACTED]

A quick canvass of our squad shows that we have used or considered use of the following Sections of the Patriot Act as listed in your recent query.

Section

2) 203(d)

6) 210

7) 211

13) 217

16) 220

b5

I left a message with AUSA [REDACTED] and will update this response if new information is obtained.

CC:

b6

b7C

~~SECRET~~

[REDACTED] USA Patriot Act

Page 1

b6

b2

b7C

b7E

DATE: 12-19-2005

CLASSIFIED BY 65179 DMH/LP/CWC

REASON: 1.4 (C)

DECLASSIFY ON: 12-19-2030

From:

To:

Date:

Subject:

8/16/02 4:31PM

USA Patriot Act

(S)

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b7C

b7E

CC:

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WHERE SHOWN OTHERWISE

~~SECRET~~

~~SECRET~~

[REDACTED] Investigative tools under the Patriot Act

Page 1

b6

b2

From: b7C [REDACTED]

To:

Date: 8/12/02 6:38PM

Subject: Investigative tools under the Patriot Act

b7E

The roving FISA authority (Section 206)

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b7E

Section 218 [REDACTED]

b1

b2

b7E

(S)

(S)

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WHERE SHOWN OTHERWISE

DATE: 12-19-2005
CLASSIFIED BY 65179 DMH/LP/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-19-2030

~~SECRET~~

b6

b7C

b2

b7E

From: [REDACTED]
To: [REDACTED]
Date: 8/16/02 12:35PM
Subject: Re: Request for Assistance from the CDCs

b6

b7C

[REDACTED] My apologies for not responding sooner, but I have been out of town and this week we've had some Congressional staffers here (including former [REDACTED]). But to answer your questions on the Patriot Act, there are areas that we have used extensively in San Diego and have had a positive impact on our ability to work CT cases.

Section 203(d) allows for information sharing in counter terrorism cases. We have a Joint Terrorism Task Force and other close direct contacts with various intelligence agencies and state law enforcement organizations that could not operate without close coordination between the officers and agents of these various groups.

Section 207 has been helpful in extending the time to conduct FISA surveillance.

Section 505 provided for the delegation of National Security Letters authorization to the SAC level. This has been used extensively in San Diego.

b5

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b7C

>> [REDACTED] 08/15/02 09:02AM >>>

b6

b7C

Good morning: Attached is a communication that was sent to you on August 1, 2002, requesting your assistance in obtaining information regarding the Patriot Act in response to a request from Senators Feinstein, Leahy and Kyl for a briefing of their staffers. In particular, the questions posed are how many times have we have used the tools provided by the Patriot Act and if the tools need refinement/tweaking (the tools are listed in the attachment). The briefing is scheduled for August 20. We requested responses by August 14, 2002, so as to give us adequate time to prepare. As of today we have not received responses from you. I know you are extremely busy but it is imperative that we obtain information to respond to the 2 questions posed by the Senators. Congress has specifically requested this information and it is important that we be as comprehensive and accurate as possible in our response. Plus, this is an opportunity to attempt to obtain revisions, if necessary, to better the tools. We need to provide them with statistics and examples to accomplish this.

Please respond to this request by COB tomorrow. Thank you [REDACTED]

b6

b7C

~~SECRET~~

[redacted] Patriot Act

Page 1

ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

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b7C

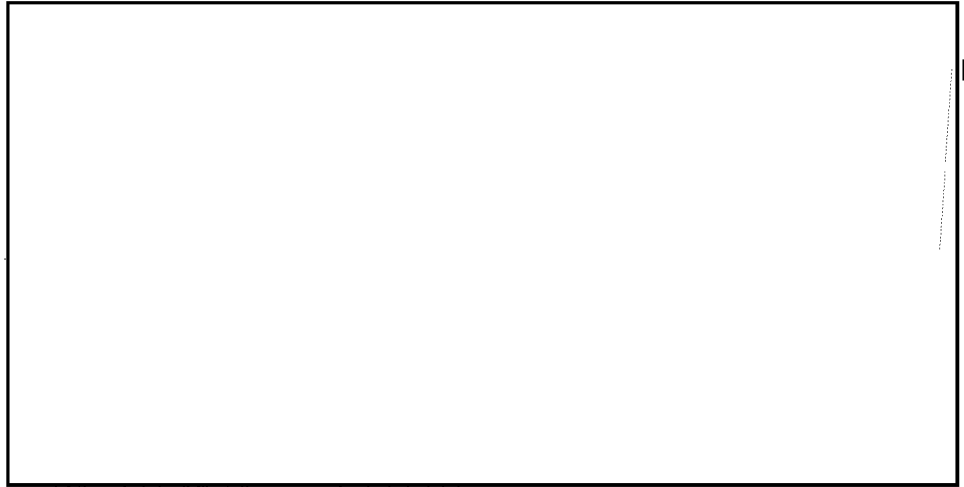
b2
b7E

From: [redacted]
To: [redacted]
Date: 8/16/02 2:32PM
Subject: Patriot Act

DATE: 12-19-2005
CLASSIFIED BY 65179 DNH LP/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-19-2030

[redacted] I am apologize, this response is late. I did not get much in the way of a response from the request I sent out to my supervisors.

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b2
b7E



(S)

I am sorry I don't think this was particularly helpful.

[redacted] b6
b7C

~~SECRET~~

~~SECRET~~

b6

b7C

- Re: Request for Assistance from the CDCs

Page 1

ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

From: [REDACTED]
To: [REDACTED]
Date: 8/16/02 3:23PM
Subject: Re: Request for Assistance from the CDCs

b2

b7E

b1

b2

b7E

(S)

DATE: 12-19-2005
CLASSIFIED BY 65179 DMH/LP/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-19-2030

05-CV-0845)

b6

b7C

>> [REDACTED] 8/15 1:02 PM >>>

Good morning: Attached is a communication that was sent to you on August 1, 2002, requesting your assistance in obtaining information regarding the Patriot Act in response to a request from Senators Feinstein, Leahy and Kyl for a briefing of their staffers. In particular, the questions posed are how many times have we have used the tools provided by the Patriot Act and if the tools need refinement/tweaking (the tools are listed in the attachment). The briefing is scheduled for August 20. We requested responses by August 14, 2002, so as to give us adequate time to prepare. As of today we have not received responses from you. I know you are extremely busy but it is imperative that we obtain information to respond to the 2 questions posed by the Senators. Congress has specifically requested this information and it is important that we be as comprehensive and accurate as possible in our response. Plus, this is an opportunity to attempt to obtain revisions, if necessary, to better the tools. We need to provide them with statistics and examples to accomplish this.

Please respond to this request by COB tomorrow. Thank you. [REDACTED]

~~SECRET~~

~~SECRET~~

[REDACTED] Re: Request for Assistance from the CDCs

Page 1

b6
b7C

From: [REDACTED]
To: [REDACTED]
Date: 8/19/02 8:40PM
Subject: Re: Request for Assistance from the CDCs

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b7E

DATE: 12-19-2005
CLASSIFIED BY 65179 DMH/LP/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-19-2030

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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b5

Ok, although I'd like to have gotten you something a little more polished, in the interest of giving you something here goes:

(S)

(S)

Sorry for not getting this to you sooner.

I still want to touch base re my upcoming meeting with the [REDACTED] I'll try you later (fair warning).

b6

Thanks, G

b7C

>>> [REDACTED] 08/15 9:02 AM >>>

b6

b7C

Good morning: Attached is a communication that was sent to you on August 1, 2002, requesting your assistance in obtaining information regarding the Patriot Act in response to a request from Senators Feinstein, Leahy and Kyl for a briefing of their staffers. In particular, the questions posed are how many times have we have used the tools provided by the Patriot Act and if the tools need refinement/tweaking (the tools are listed in the attachment). The briefing is scheduled for August 20. We requested responses by August 14, 2002, so as to give us adequate time to prepare. As of today we have not received responses from you. I know you are extremely busy but it is imperative that we obtain information to respond to the 2 questions posed by the Senators. Congress has specifically requested this information and it is important that we be as comprehensive and accurate as possible in our response. Plus, this is an opportunity to attempt to obtain revisions, if necessary, to better the tools. We need to provide them with statistics and examples to accomplish this.

Please respond to this request by COB tomorrow. Thank you [REDACTED]

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ALL INFORMATION CONTAINED
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DATE 12-19-2005 BY 65179 DMH/LP/CWC

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From..

To:

Date: 8/19/02 9:15AM

Subject: Re: Request for Assistance from the CDCs

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b7C

[REDACTED]
I was out of the division last week. Recently retired [REDACTED] previously sent out this request to applicable supervisors, but I did not receive any responses before I left. I have resubmitted it and will send you any positive information I receive. Thanks.
[REDACTED]

>> [REDACTED] 08/15 12:02 PM >>>

Good morning: Attached is a communication that was sent to you on August 1, 2002, requesting your assistance in obtaining information regarding the Patriot Act in response to a request from Senators Feinstein, Leahy and Kyl for a briefing of their staffers. In particular, the questions posed are how many times have we have used the tools provided by the Patriot Act and if the tools need refinement/tweaking. (the tools are listed in the attachment). The briefing is scheduled for August 20. We requested responses by August 14, 2002, so as to give us adequate time to prepare. As of today we have not received responses from you. I know you are extremely busy but it is imperative that we obtain information to respond to the 2 questions posed by the Senators. Congress has specifically requested this information and it is important that we be as comprehensive and accurate as possible in our response. Plus, this is an opportunity to attempt to obtain revisions, if necessary, to better the tools. We need to provide them with statistics and examples to accomplish this.

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Please respond to this request by COB tomorrow. Thank you [REDACTED]

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[Redacted]

Use of Patriot Act

Page 1

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b7C

[Redacted]

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ALL INFORMATION CONTAINED
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From: [Redacted]
To: [Redacted]
Date: 8/15/02 12:29PM
Subject: Use of Patriot Act

DATE: 12-19-2005
CLASSIFIED BY 65179 DMH/LP/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-19-2030

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[Redacted]

Here's what I have come up with. There's probably more, but these are the responses
received.

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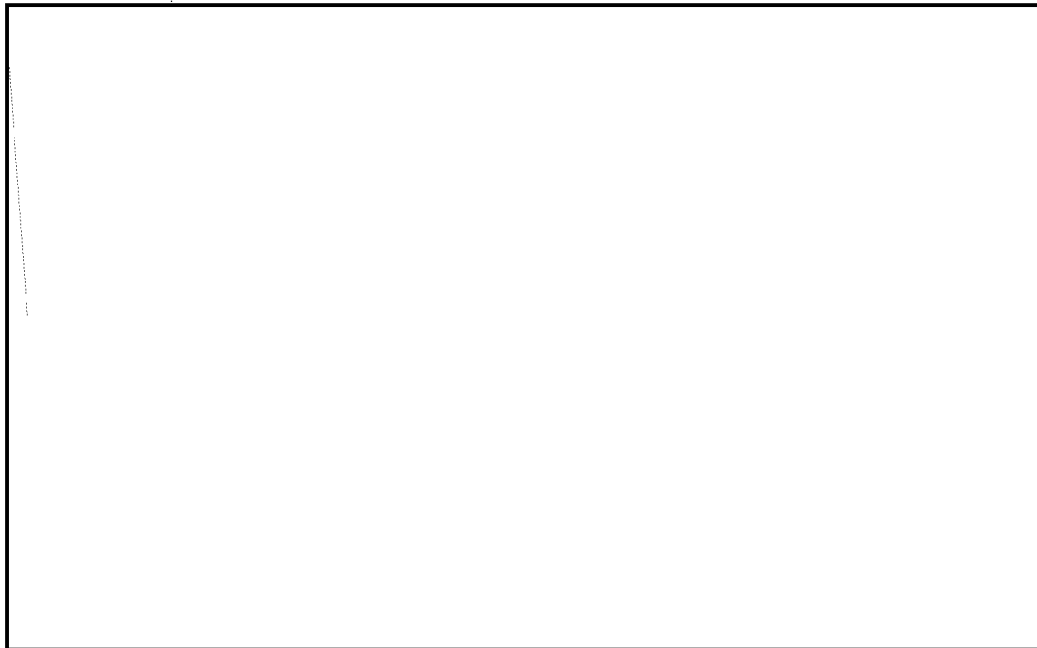
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This is all I have for now.

[Redacted]

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DATE 12-19-2005 BY 65179 DMH/LP CWC

From: [redacted] b6
To: [redacted] b7C
Date: 8/1/02 5:28PM
Subject: Fwd: Re: Issues for the Director's upcoming testimony

[redacted]
These were my comments in June and little has changed.

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b7E
SSA [redacted]
[redacted]
Privileged and Confidential
CC: [redacted]

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DATE 12-19-2005 BY 65179 DHM/LP/CWC

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b7C

I know you have busy schedules. I apologize for such short notice. I have a few questions that I would like to put to you. Perhaps, you can answer them. Please send your replies to me, so that I do not burden [REDACTED] any further. We have to prepare the briefing book for the Director before week's end.

#1. Are you aware of any terrorist events that the FBI has thwarted? Please provide examples.

b6

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#2. Are you aware of any terrorist investigations that were hampered by the old Attorney General Guidelines (i.e., not being able to enter places of worship; or, political impediments). Please provide examples.

I appreciate any help you may provide. Thank you. [REDACTED]

If you can answer the following questions, please reply to [REDACTED] at OPCA.

#1. Which aspects of the Patriot Act need tweaking?

#2. Provide specific detail and statistics as to how the Patriot Act has been used (e.g., number of wiretaps, searches, etc.).

Thank you.

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CC: [REDACTED]
[REDACTED]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 12-19-2005 BY 65179 DMH/LP/CWC

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m:

To:

Date: 8/19/02 12:42PM

Subject:

Fwd: Re: PATRIOT ACT FEEDBACK

[REDACTED]
We have provided training on the Patriot Act to Supervisors and Agents. As you know, there are some Agents who when given the opportunity will always complaint about something. We also have additional training coming up on aspects of the Patriot Act but we are still waiting on the final version of the of policy that is undergoing review by NSLU and OIPR. (Sharing of FISA and Grand Jury information).

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>>> [REDACTED] 08/19/02 05:31AM >>>

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[REDACTED] Thanks for all the extra input you were able to obtain. It is extremely helpful.

b7C

Just a note - I am a little concerned that there may be agents in LA that believe the Patriot Act has not yet been implemented (see forwarded e-mail). Both ILU and NSLU sent out ECs providing guidance on the Patriot Act (see attached) and I know the CDCs have been using the materials OGC provided you at the CDC Conference in January for guidance and training. Please feel free to re-circulate the attached ECs if you think it may be beneficial. Thanks again for all your help [REDACTED]

b6

>>> [REDACTED] 08/16/02 09:36PM >>>

b7C

FYI

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[REDACTED] Staff Brief re: Patriot Act

Page 1

DATE: 12-19-2005
CLASSIFIED BY 65179DMH/LP/CWC
REASON: 1.4 (C 05-CV-0845)
DECLASSIFY ON: 12-19-2030

b6

From:

To:

b7C

Date:

8/8/02 2:23PM

Subject:

Staff Brief re: Patriot Act

Thanks for the information.

Also --- this may be obvious, but: please note specifically in your e-mail that this is an important matter, that Congress has specifically requested this information, & that it's important that we be as comprehensive & as accurate as possible in our response.

Thanks.

>> [REDACTED] 08/08/02 02:11PM >>>

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(S)

(S)

All the other responses have addressed tweaking the act. I will send a reminder e-mail out tomorrow.

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~~SECRET~~

b6

b7C

DATE: 12-08-2005
CLASSIFIED BY 65179DMH/LP/cpb
REASON: 1.4 (c)
DECLASSIFY ON: 12-08-2030

[redacted] (OGC) (FBI)

CA# 05-CV-0845

From: [redacted] (Div09) (FBI)

Sent: Tuesday, May 18, 2004 2:03 PM

To: [redacted] (Div00) (FBI); BOWMAN, MARION E. (Div09) (FBI); [redacted] (Div09) (FBI); [redacted] (Div09) (FBI)

Cc: [redacted] (Div00) (FBI)

Subject: RE: Statistics re USA PATRIOT Act provisions

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 09-08-2005 BY 65179 DMH/CLS

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b7C

**UNCLASSIFIED
NON-RECORD**

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WHERE SHOWN OTHERWISE

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[redacted] I can provide you the results from the field survey that OGC conducted, however, I can also guarantee that these are not entirely accurate numbers. The field survey was voluntary, and the level of detail provided varied between the field offices. Furthermore, since then I have been advised that some HQ divisions have been utilizing various Patriot Act tools, and I did not receive any contributions from any HQ division on this survey, so their use is not included in any numbers that I have.

The field offices reported the following:

(S) (S) (S)

Section 206 - Roving FISA orders [redacted] times

Section 215 - Used [redacted] times, [redacted] additional orders currently in approval process

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Section 213 - Delayed Notice for Search Warrants - This is not a sunset provision, so we did not seek field input on this specific provision at this time.

Also - as you are aware, field offices collect statistics on their accomplishments (i.e. search warrants executed). I believe that Finance Division maintains, compiles, and reports these statistics. They may have more accurate field wide numbers.

I hope this is helpful.

[redacted]
Assistant General Counsel
Investigative Law Unit
Office of the General Counsel

b2

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b7C

-----Original Message-----

From: [redacted] (Div00) (FBI)

Sent: Tuesday, May 18, 2004 1:41 PM

To: BOWMAN, MARION E. (Div09) (FBI); [redacted] (Div09) (FBI); [redacted]

[redacted] (Div09) (FBI); [redacted] (Div09) (FBI)

Cc: [redacted] (Div00) (FBI)

Subject: Statistics re USA PATRIOT Act provisions

Importance: High

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**UNCLASSIFIED
NON-RECORD**

In anticipation of the Director's scheduled appearance before the Senate Judiciary Committee this Thursday, May 20th, we are trying to confirm the number of times we have used Delayed Notice (so-called "Sneak and Peek") Warrants, FISA Roving Wiretaps, and FISA Orders for Tangible Things (i.e., so-called

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6/9/2005

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Section 215 Orders), since passage of the USA PATRIOT Act.

I realize there are several potential complications with compiling such numbers (e.g., Delayed Notice Warrants used in traditional criminal cases, classification issues re 215 Orders, etc.). Nevertheless, if any of you could provide some input on this, it would be very helpful. We can almost guarantee the Director will be asked about the numbers when he testifies.

Is DOJ compiling numbers? Is there anyone at OLP or OIPR who may know?

Thanks,

[redacted]

Office of Congressional Affairs

ext. [redacted]

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6/9/2005

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DECLASSIFIED BY 65179 DMH/CLS
ON 09-08-2005
CA# 05-CV-0845

b7C

[REDACTED] (OGC) (FBI)

From: [REDACTED] (OGC) (FBI)

Sent: Friday, July 16, 2004 2:26 PM

b6

To: KELLEY, PATRICK W. (OGC) (FBI); BOWMAN, MARION E. (OGC) (FBI)

b7C

Cc: Caproni, Valerie E. (OGC) (FBI); [REDACTED] (OGC) (FBI)

Subject: FW: Sunset provisions - Examples

~~SECRET//ORCON,NOFORN~~
RECORD 66F-HQ-C1364260

Pat: This is the final compilation of OGC-gathered examples and comments on the provisions of the Patriot Act that will sunset in Dec 2005 unless they are made permanent. This was collected for a variety of reasons--mainly for DOJ/OLP and it contributed to the report DOJ issued the other day. Now, OCA needs it and [REDACTED] needs it [REDACTED] is the point person on that) to respond to Sen Feinstein's inquiries. I need to send it to [REDACTED] in OCA and who will put it into the format they want. Before I do I am sending it to you for official blessing with a copy to Spike who said he would look to see if [REDACTED] rewrite (she took out names, places, etc from the case summaries she recieved) would allow us to declassify it.

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[REDACTED]

-----Original Message-----

From: [REDACTED] (OGC) (FBI)

Sent: Friday, July 16, 2004 1:41 PM

b6

To: [REDACTED] (OGC) (FBI)

Subject: Sunset provisions - Examples

b7C

~~SECRET//ORCON,NOFORN~~
RECORD 66F-HQ-C1364260

[REDACTED] - Attached is the final version. If you have any questions, please feel free to contact me.

b6

[REDACTED]

b7C

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations~~
~~DECLASSIFICATION EXEMPTION 1~~
~~SECRET//ORCON,NOFORN~~

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations~~
~~DECLASSIFICATION EXEMPTION 1~~
~~SECRET//ORCON,NOFORN~~

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b7C

 (OGC) (FBI)**From:** KELLEY, PATRICK W. (OGC) (FBI)DECLASSIFIED BY 65179 DMH/CLS
ON 09-08-2005**Sent:** Tuesday, July 20, 2004 11:22 AM

CA# 05-CV-0845

To: (OGC) (FBI); BOWMAN, MARION E. (OGC) (FBI)**Cc:** Caproni, Valerie E. (OGC) (FBI); (OGC) (FBI)

b6

Subject: RE: Sunset provisions - Examples

b7C

~~SECRET//ORCON,NOFORN~~
~~RECORD 66F-HQ-C1364260~~

I assume you've coordinated the intercept issues with TLU. Two comments: The first paragraph at the top of p. 8 seems to be missing something; there's not even a period. Also, in the 2nd paragraph on p. 8, and on p. 10, we mention delays attributable to OIPR. While true enough, it would probably be more prudent to delete the references to OIPR and just leave it as "processing delays." Otherwise, it's good to go by me.

b6

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b6

Subject: FW: Sunset provisions - Examples

b7C

~~SECRET//ORCON,NOFORN~~
~~RECORD 66F-HQ-C1364260~~

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From: (OGC) (FBI)

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Sent: Friday, July 16, 2004 1:41 PM

b7C

To: (OGC) (FBI)**Subject:** Sunset provisions - Examples

~~SECRET//ORCON,NOFORN~~
~~RECORD 66F-HQ-C1364260~~

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b7C

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence~~
~~Investigations~~
~~DECLASSIFICATION EXEMPTION 1~~

6/9/2005

~~SECRET//ORCON,NOFORN~~

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations~~

~~DECLASSIFICATION EXEMPTION 1~~

~~SECRET//ORCON,NOFORN~~

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations~~

~~DECLASSIFICATION EXEMPTION 1~~

~~SECRET//ORCON,NOFORN~~

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b7C

[REDACTED] (OGC) (FBI)

From: [REDACTED] (OGC) (FBI)

Sent: Tuesday, July 20, 2004 11:30 AM

To: [REDACTED] (OGC) (FBI)

Subject: FW: Sunset provisions - Examples

DECLASSIFIED BY 65179 DMH/CLS
ON 09-14-2005

CA# 05-CV-0845

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~~SECRET//ORCON,NOFORN~~
~~RECORD 66F-HQ-C1364260~~

[REDACTED] I made the corrections as per Pat's e-mail, and it is attached. I'm not sure what "intercept issues" he is referring to that involve TLU.

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[REDACTED]
-----Original Message-----

From: KELLEY, PATRICK W. (OGC) (FBI)

Sent: Tuesday, July 20, 2004 11:22 AM

To: [REDACTED] (OGC) (FBI); BOWMAN, MARION E. (OGC) (FBI)

Cc: Caproni, Valerie E. (OGC) (FBI); [REDACTED] (OGC) (FBI)

Subject: RE: Sunset provisions - Examples

b6

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~~SECRET//ORCON,NOFORN~~
~~RECORD 66F-HQ-C1364260~~

b7C

[REDACTED] I assume you've coordinated the intercept issues with TLU. Two comments: The first paragraph at the top of p. 8 seems to be missing something; there's not even a period. Also, in the 2nd paragraph on p. 8, and on p. 10, we mention delays attributable to OIPR. While true enough, it would probably be more prudent to delete the references to OIPR and just leave it as "processing delays." Otherwise, it's good to go by me.

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From: [REDACTED] (OGC) (FBI)

Sent: Friday, July 16, 2004 2:26 PM

To: KELLEY, PATRICK W. (OGC) (FBI); BOWMAN, MARION E. (OGC) (FBI)

Cc: Caproni, Valerie E. (OGC) (FBI); [REDACTED] (OGC) (FBI)

Subject: FW: Sunset provisions - Examples

b6

b7C

~~SECRET//ORCON,NOFORN~~
~~RECORD 66F-HQ-C1364260~~

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[REDACTED]
-----Original Message-----
From: [REDACTED] (OGC) (FBI)
Sent: Friday, July 16, 2004 1:41 PM
To: [REDACTED] (OGC) (FBI)
Subject: Sunset provisions - Examples

b6

b7C

6/9/2005

~~SECRET//ORCON,NOFORN~~
~~RECORD 66F-HQ-C1364260~~

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☐

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~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations~~
~~DECLASSIFICATION EXEMPTION 1~~
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~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations~~
~~DECLASSIFICATION EXEMPTION 1~~
~~SECRET//ORCON,NOFORN~~

6/9/2005

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DECLASSIFIED BY 65179 DMH/CLS
ON 09-08-2005

b7C

CA# 05-CV-0845

[REDACTED] (OGC) (FBI)

From: [REDACTED] (OGC) (FBI)

Sent: Tuesday, July 20, 2004 12:20 PM

To: [REDACTED] (OCA) (FBI)

b6

Cc: BOWMAN, MARION E. (OGC) (FBI); [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI);
[REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI);
[REDACTED] (OGC) (FBI); Curran, John F. (OGC) (OGA); [REDACTED] (OCA) (FBI)

b7C

Subject: Sunset provisions

~~SECRET//ORCON,NOFORN~~
RECORD 66F-HQ-C1364260

[REDACTED] attached are our comments and the results of our field and HQ survey on the Patriot Act sunset provisions. We folded in the examples provided by NSLB so it is one complete OGC package. [REDACTED] kept the classification she received for the examples but she deleted most of the references to subject's names, locations, etc--so I am sure that much what is labeled ~~SECRET~~ can be declassified--but I can't do that, which is why I copied Spike.

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Not knowing what format you wanted, I just sent it as is. DGC Pat Kelley has approved it as well.

[REDACTED]
Office of the General Counsel
[REDACTED]

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~~DERIVED FROM: Multiple Sources~~
~~DECLASSIFY ON: 20140720~~
~~SECRET//ORCON,NOFORN~~

Use of the USA PATRIOT Act
Classified Appendix

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Section 212 - Emergency Disclosure of Electronic Communications to Protect Life and Limb



(S)

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CA# 05-CV-0845

Examples of Patriot Act Use Requiring Additional Facts

Section 201 - Expanded predicate offenses for T-3

[redacted] - FO initiated [redacted] T-3 in a 315 case where terrorism identified as a predicate offense. Was this the only predicate offense? Would we have been able to get the T-3 without the Patriot Act change?

[redacted] - improved ability of info sharing with state/locals/ and other federal agencies in order to respond rapidly to threat and make an action plan.

[redacted]
[redacted]

info sharing with others critical
info sharing with others critical

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Section 203 - Information Sharing (from criminal to the intell side)

[redacted] - 315Q [redacted] 56983
[redacted]

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WHERE SHOWN OTHERWISE

[redacted] - 315N [redacted] 33992

[redacted] - [redacted]
315O [redacted] 215590

DATE: 01-03-2006
CLASSIFIED BY 65179 dmh/baw 05-cv-0845
REASON: 1.4 (c)
DECLASSIFY ON: 01-03-2031

[redacted] - This provision used most notably in the following cases:

[redacted]
[redacted] - 315B [redacted] 52073
[redacted]

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[redacted] - [redacted]
315Q [redacted] 57173 -

Section 206 - Roving FISAs

[redacted] - I received the following from the CDC on the case recently released to the press regarding the plot to blow up a shopping mall. [redacted]

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"I believe we used the roving FISA on [redacted] not [redacted] These are related cases, but two separate cases, file numbers and FISA requests. I believe the roving part [redacted] As far as [redacted] so you can use as much of the press release information as you would like."

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~~SECRET~~

Any clarification on this case would be helpful.

Section 212 - Emergency Disclosures by ISPs

[] - 315S-[] 224164

also used in a case regarding a "threat to a high ranking foreign official"

Section 214 - new standard for FISA pen/trap

(S)

[] - used [] different 315 cases; ASAC notes that this was "extremely helpful" and could not have been obtained without the new pen/trap standard.

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[] - A pen/trap order was obtained []

Any updates to this case?

[] - 65A-[] 220066

[] - 315N-[] 68267 - pen on []

b2

65M-[] 66909 - pen not possible under old standard []

b7A

[] via the pen

b7E

[] pen obtained on subject []

[] - 315N-[] -57048 - likely not to obtain pen/trap under old standard

b2

b7E

Section 218 - Change in the Primary Purpose Standard for FISA

[] - [] AUSAs have worked closely to identify criminal charges against the subject []

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b7E

[] - the [] and [] Investigation - FO states that even though information had been passed over "the wall" prior to the wall coming down and an indictment was being prepared, when the "wall" came down, significantly more information was passed to the criminal investigators and prosecutors giving them a clearer understanding of the case.

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[] - There are [] other 315 cases where information sharing has been critical to the success of the investigations.

[] - 315N-[] 56807

(S)

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b2

[] - 315Q-[] 36062

b7E

~~SECRET~~

~~SECRET~~

b2

b7E

[] - 315M [] - 45821

[]

281F- [] - 66686 - having criminal side fully apprized of all of the intelligence assisted in the coordination []

b2

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b7E

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[] - direct result of info sharing, subject was arrested without incident

315N- [] - 67573

[] - [] criminal activity determined and cases opened

b2

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b7E

Section 220 - Nationwide search warrants for e-mail

[] - []

b2 , b7A, b7E

[]

- used in the [] investigation b2 , b6, b7C, b7E

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[]

Significant part of

[]

[]

This expedited the receipt of critical information.

b2

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~~SECRET~~

~~SECRET~~

DATE: 12-06-2005
CLASSIFIED BY: 65179/DMH/CLS
REASON: 1.4 (C)
DECLASSIFY ON: 00-00-2030

(OGC) (FBI)

From: [REDACTED] (Div09) (FBI)

b6

Sent: Friday, March 12, 2004 2:42 PM

b7C

To: [REDACTED] (Div09) (FBI)

CA# 05-CV-0845

Subject: RE: 2702(b)(7) Emergency Request *Secret* For Director's information.

UNCLASSIFIED
NON-RECORD

DATE: 12-06-2005
CLASSIFIED BY: 65179/DMH/ LP/ CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-06-2030

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Yes it's classified. Since being Trilogized, we're still trying to figure out how to send emails. I sent it unclassified, non-record so that I could send it out, but I marked Secret in the Subject line. There you go - clear as mud.

[REDACTED]

b2

Assistant General Counsel
National Security Law Branch
Counterterrorism Law Unit 1

b6

b7C

[REDACTED]

-----Original Message-----

From: [REDACTED] (Div09) (FBI)

b6

Sent: Friday, March 12, 2004 1:50 PM

To: [REDACTED] (Div09) (FBI)

b7C

Subject: RE: 2702(b)(7) Emergency Request *Secret* For Director's information.

UNCLASSIFIED
NON-RECORD

Thanks!! I'm a little confused. I assume this is classified info. Am I correct? I plan to mark it at the secret level and submit it with the remainder of examples. It will go through the front office of OGC and then over to DOJ Office of Legislative Affairs. Is this OK?

-----Original Message-----

b6

b1

From: [REDACTED] (Div09) (FBI)

b7C

b2

Sent: Friday, March 12, 2004 12:34 PM

b7E

To: [REDACTED] (Div09) (FBI)

Cc: [REDACTED] (Div09) (FBI)

b6

Subject: 2702(b)(7) Emergency Request *Secret* For Director's information.

b7C

UNCLASSIFIED
NON-RECORD

[REDACTED]

(S)

Assistant General Counsel
National Security Law Branch
Counterterrorism Law Unit 1

~~SECRET~~

6/7/2005

HEREIN IS UNCLASSIFIED

DATE 09-19-2005 BY 65173 DMH/CLS
(OCIC) (FBI)

From:

Sent:

Monday, March 08, 2004 1:16 PM

To:

Div09) (FBI)

Cc:

(Div09) (FBI)

(Div09) (FBI);

(FBI)

Div09) (FBI);

Subject:

Re: PATRICT ACT SUNSET PROVISIONS

Sensitivity:

Private

CA# 05-CV-0845

1) FISA Business records - The FBI and DOJ should hang their heads in shame that this potentially useful authority has NEVER been used (at least it should be easy for HQ to count). The Patriot Act passed in 10/2001 and almost 3 YEARS later OGC and OIPR can't decide what pleadings to file. Meanwhile the militant librarian lobby keeps kicking us around because they "think" we use this authority. Given the apparent "shock and awe" effect of angry librarians on FBIHQ - WFO recommends that this useless authority IMMEDIATELY sunset - it would be less frustrating for the SAs and the librarians will stop picking on HQ.

2) FISA Roving authority - This authority is also a complete waste. Damn shame - it was intended to be a robust tool similar to the criminal T-III roving (read Sen Leahy's 2001 summary) but it NEVER roves. What we have is non-roving roving authority. [REDACTED] stopped asking for it - a waste of effort. Its simply pathetic that OIPR turned this potentially useful tool into a cartoon of what it should have been. As explained by Mike Woods after his briefing on the Hill - roving authority would attach to the Target and when the target picked up a phone we were aurthorized to intercept. yeah right - OIPR turned it into "Motionless Authority"

3) FISA Pen Register - the OIPR approval delays have rendered this tool almost useless. Its OIPR's last priority and the SAs no longer bother to use it. We will do without or find a way to use the criminal authority [redacted]

SSA

WFO Office of Division Counsel x

Privileged and Confidential

>>> [REDACTED] (Div09) (FBI) 03/04 3:17 PM >>>

UNCLASSIFIED

NON-RECORD

See the attached EC that was uploaded today. See 66F-HQ-1364260-5.

UNCLASSIFIED

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 09-19-2005 BY 65179 DMH/CLS

[REDACTED] (OGC) (FBI)

From: [REDACTED] Div09) (FBI)

Sent: Friday, March 12, 2004 6:45 PM

b6

To: [REDACTED] Div09) (FBI)

b7C

CA# 05-CV-0845

Subject: RE: Patriot Act

SENSITIVE BUT UNCLASSIFIED
RECORD 66F-HQ-C1364260

[REDACTED] - Attached are the two documents. One is classified, the other contains LE Sensitive material because it discusses ongoing cases. I've marked the paragraphs, but I'm not sure I used the proper techniques. I assume there is someone that can do that for us on Monday.

b6

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Also - I was advised that they used the emergency disclosure provision on the [REDACTED]
[REDACTED] So I did not include it in my list.

Finally - I also attached a copy of a document that [REDACTED] forwarded to me previously on sneek-n-peek cases that DOJ put together. I include a copy, in the event that the POC in OLP is not aware of this document. I also put a paper copy of the [REDACTED] press release in your in box. I reference this in the document.

If you have any questions, feel free to call me at home. I should be home in the morning until 11 and then again after 1pm.

Thanks.

-----Original Message-----

From: [REDACTED] Div09) (FBI)

b6

Sent: Thursday, March 11, 2004 11:06 AM

To: [REDACTED] Div09) (FBI)

b7C

Subject: Patriot Act

UNCLASSIFIED
NON-RECORD

[REDACTED] when you get in tomorrow, I need you to collect all that you can of examples, stats, etc on all the Patriot Act provisions--not just the sunset ones. We need to get it to DOJ (OLP) by Monday. Thought we had more time which is why I set the 3/19 deadline for the sunset EC--but we don't so we'll do what we can. We'll just have to follow up later with the responses to the EC. Let's talk first thing and discuss how to do this.

b6

b7C

[REDACTED]

[REDACTED]

Office of the General Counsel

b2

[REDACTED]

b6

b7C

UNCLASSIFIED

6/7/2005

SENSITIVE BUT UNCLASSIFIED

6/7/2005

DATE: 09-21-2005
CLASSIFIED BY 65179 DMH/CLS
REASON: 1.4 (S)
DECLASSIFY ON: 09-21-2030
CA# 05-CV-0845

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Use of the USA PATRIOT Act

DATE: 12-06-2005
CLASSIFIED BY 65179/DMH/LP/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-06-2030

Section 210 - Scope of Subpoena

- This provision expanded the type of information that can be obtained from an Internet service provider (or other types of service providers) with a subpoena. This expansion allows agents working computer intrusion cases to immediately identify if a computer used by a hacker is a victim computer where the hacker is 'hoping through' the computer, or is the computer hacker's own computer. This significantly expedites computer intrusion investigations. Referral/Direct

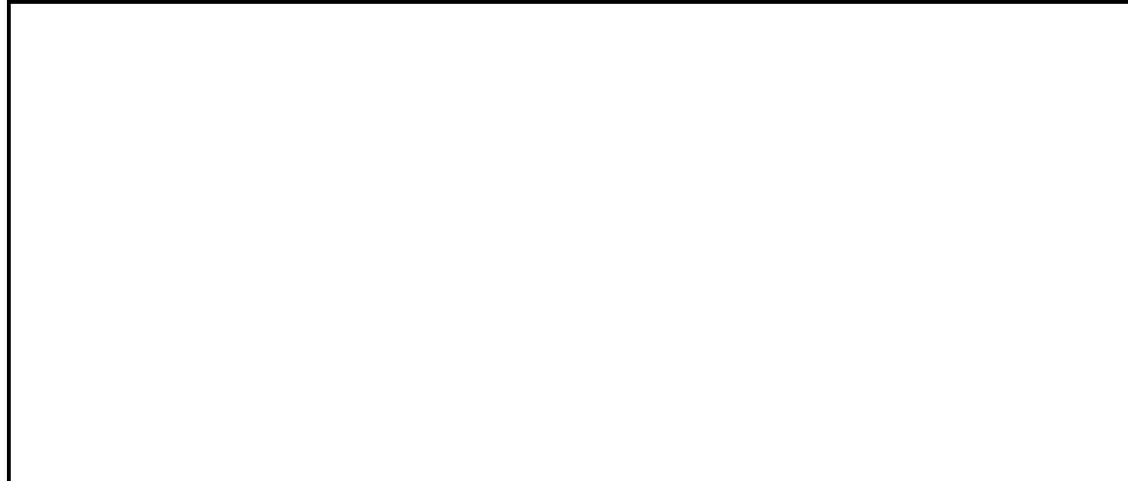


Section 212 - Emergency Disclosure of Electronic Communications to Protect Life and Limb



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- **Recent Kidnaping Case** - Recently, a 14 year old girl was abducted. Her laptop was also missing. The case agents suspected that the nefarious character she had met in an Internet chat room was the perpetrator. [Redacted]

[Redacted] e-mail. As a result, the suspect was quickly identified and interviewed. He admitted to picking up the girl and took agents to the truck stop where he had left her. Because of this provision, additional harm to the girl was prevented and she was returned to her family in a matter of hours. This is but one example of how essential this provision is for child abduction

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~~SECRET~~

cases.

Section 216 - Nationwide Effect of Pen/Trap Orders

- (LE SENSITIVE) [redacted] Hacker - [redacted] are becoming more widespread throughout both corporate and private systems. This computer hacker [redacted]

[redacted]

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(LE SENSITIVE) In this case it was difficult to identify the hacker because he [redacted] [redacted] each time he entered the corporate victim's computer because he was [redacted] each time. Due to the changes in Section 216 of the USA PATRIOT Act, the FBI was able to obtain [redacted] [redacted] for this hacker and then present it to [redacted] [redacted] This enabled the agents to identify the hacker. He was recently arrested and is awaiting trial. (LE SENSITIVE)

b7A

Section 217 - Interception of Computer Trespasser Communications

-

[redacted]

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- (LE SENSITIVE) **U.S. Government System Hacked** - Recently a U.S. Government computer system was identified as the victim of a computer hacker. The hacker was utilizing the government computer to [redacted]

[redacted]
[redacted] The

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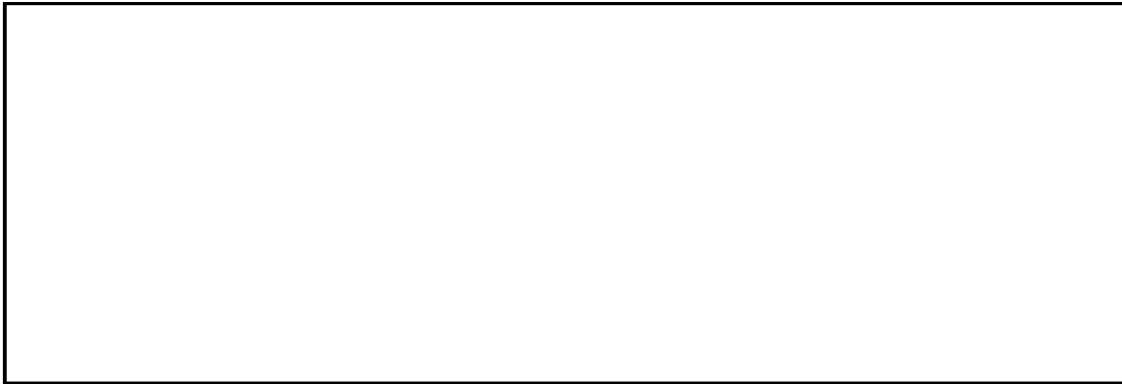
~~SECRET~~

~~SECRET~~

investigation is ongoing to identify the suspect and any additional victims. (LE SENSITIVE)

Section 814 - Deterrence and Prevention of CyberTerrorism

-



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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 09-21-2005 BY 65178 DMH/CLS

[redacted] (OGC) (FBI)

From:

Sent:

To:

Subject:

[redacted]
Friday, March 19, 2004 3:04 PM

b2

[redacted] (Div09) (FBI)

b6

[redacted] PATRIOT Act Use Report

CA# 05-CV-0845

b7C

b7E



patriotact-use-ilu.w

pd (15 KB)...

[redacted] Attached is an electronic copy of [redacted] PATRIOT Act Use Report.

A hardcopy will follow in the Bureau mail.

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[REDACTED] OGC (FBI)

From: [REDACTED]
Sent: Friday, March 10, 2004 3:29 PM
To: [REDACTED] Div09) (FBI)
Cc: [REDACTED]
Subject: Patriot Act sunset provisions ...
Importance: High

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 09-21-2005 BY 65179 DMH/CLS
CA# 05-CV-0845



patriot act sunset
provisions ... [REDACTED]

b6
b7C

The deadline for submission of our response is today. To assure timely receipt, the [REDACTED] Division response is attached. ACS and paper copies will follow.

b2
b7E

Please note that the EC is classified "~~SECRET~~."



b6
b7C

b6 , b7C

[REDACTED] (OGC) (FBI)

From: [REDACTED]
Sent: Friday, March 26, 2004 11:42 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: C. (Div09) (FBI)
Another tasking

b2

[REDACTED]
FBIHQ requests a brief write-up of significant cases aided by the Patriot Act. Some of it is sun setting. Please provide me with a brief write-up of the big [REDACTED] Case and [REDACTED] in [REDACTED]. Please list file numbers. The document to FBIHQ will be classified if need be (probably).

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Please list all sophisticated techniques used. I know FISAs (electronic and physical), T-IIIs (new predicates/information sharing), e-mail SWs(now nationwide allowed), NSLs(SAC authority), GJ subpoenas (information sharing), SWs(nationwide for terrorism; delayed notification), etc were used in these cases. Please list some significant accomplishments in these cases. Also, obviously, information sharing has aided in coordinating the criminal side and FCI side of the cases.

I know [REDACTED] case effort has resulted in an entire network being identified and cases being initiated nationally and overseas. Also, we've probably issued hundreds of NSLs for the [REDACTED] case. Please give me rounded number of NSLs if it is available.

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For the [REDACTED] case, it will be mentioned that the overseas seizing power and subpoena power was contemplated, although not in the end used (I don't think).

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We don't think we are using the PATRIOT Act , but since it altered the statutory authority of every one of our investigative techniques, we use it everyday. FBIHQ wants specifics on big cases to report back to the security committees on how these new tools are being used. Please help. Lee.

Anyway, I don't want to add to your already big loads, but if you have a write-up handy with some statistics on number of techniques, and other accomplishments, I can add the rest. I'll forward the final copy.

[REDACTED]
CC: [REDACTED] OGC

b6

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DATE: 09-26-2005
CLASSIFIED BY 65179 DMH/CLS
REASON: 1.4 (C)
DECLASSIFY ON: 09-26-2030

ALL INFORMATION CONTAINED
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CA# 05-CV-0845

~~SECRET~~/ORCON/NOFORN

FEDERAL BUREAU OF INVESTIGATION

DATE: 12-07-2005
CLASSIFIED BY 65179 DHM/LP/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-07-2030

Precedence: PRIORITY

Date: 04/26/2004

To: General Counsel

Attn: Investigative Law Unit
Room 7326

From: [REDACTED]

Contact: [REDACTED]

Approved By: [REDACTED]

Drafted By: [REDACTED]

Case ID #: (U) 66F-HQ-C1364260
(U) 66F-HQ-C1384970
(U) AL 66F-A3035

Title: (U) USA PATRIOT ACT
SUNSET PROVISIONS

Synopsis: (U) Case narratives provided as requested.

~~(S) (U) Derived From : G-3
Declassify On: X1~~

Reference: (U) 66F-HQ-C1364260 Serial 5

Details: ~~(S)~~ (U) As requested in referenced EC, [REDACTED] is providing the following case narratives which describe investigations aided by provisions of the USA Patriot Act.

[REDACTED]

~~SECRET~~/ORCON/NOFORN

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~~SECRET~~/ORCON/NOFORN

b2

b7E

To: General Counsel From:
Re: (U) 66F-HQ-C1364260, 04/26/2004

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PATRIOT ACT PROVISIONS USED:

*Section 201 and 202 - Title III Predicates - no new predicates used in case but Title IIIs extensively used.

*Section 203 Information Sharing.

*Section 209 regarding voice mail.

*Section 220 regarding nationwide Search Warrants for E-Mail.

(S)

(S)

~~SECRET~~/ORCON/NOFORN

~~SECRET~~/ORCON/NOFORN

b2

b7E

To: General Counsel From: [REDACTED]
Re: (U) 66F-HQ-C1364260, 04/26/2004

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(S)

PATRIOT ACT PROVISIONS USED:

- *Section 203, Information Sharing
- *Section 214, New Standard for FISA Pen/Trap
- *Section 218 & 504, Changes to "Primary Purpose" Standard for FISA

~~(S)~~

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(S)

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~~(S)~~

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(S)

b7E

b2

(U) In October 2001, JTTF [REDACTED] initiated investigation into [REDACTED]

b7A

b7E

[REDACTED] Investigation was predicated on Source information which was corroborated by information provided by CAU, FBIHQ.

(S)

~~(U)~~

[REDACTED] subjects have been convicted on heroin related and fraudulent document charges including two [REDACTED] State Department of Motor Vehicles employees. Numerous investigative techniques were utilized which included a Title III, 150 consensual recordings, and a [REDACTED]

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~~SECRET~~/ORCON/NOFORN

~~SECRET~~/ORCON/NOFORN

b2

b7E

To: General Counsel From:
Re: (U) 66F-HQ-C1364260, 04/26/2004

(U)

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PATRIOT ACT PROVISIONS USED:

*Section 203, Information Sharing

*Sections 201 & 202, Expanded Predicate Offenses for Title III
(expanded predicates not used in case, just Title III)

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~~SECRET~~/ORCON/NOFORN

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~~SECRET~~/ORCON/NOFORN

b2

b7E

To: General Counsel. From: [REDACTED]
Re: (U) 66F-HQ-C1364260, 04/26/2004.

(S)

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b7E

(S)

PATRIOT ACT PROVISIONS USED:

- *Section 203, Information Sharing;
- *Section 214, New Standard for FISA Pen/Trap;
- *Section 218 & 504, New "Primary Purpose" Standard for FISA

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USE OF INFORMATION SHARING AUTHORITY

JOINT TERRORISM TASK FORCE (JTTF)

(U) Original staffing was [REDACTED] FBI Special Agents (SA's) and [REDACTED] full-time Task Force Officers (TFO's) of other federal state, and local agencies. Current staffing has grown to [REDACTED] FBI SA's, sixteen TFO's, and [REDACTED] Intelligence Analyst (IA [REDACTED]). The JTTF currently has full-time representatives from the Department of State (DOS), Internal Revenue Service (IRS), [REDACTED] Federal Air Marshal [REDACTED] FAM [REDACTED] from the Transportation Security Administration (TSA), two SA's from the Immigration & Customs Enforcement (ICE), [REDACTED] New York State Police (NYSP) Investigators, [REDACTED] New York State Office of Inspector General Investigator [REDACTED] and [REDACTED] Detective [REDACTED] from [REDACTED].

b2

b7E

b7F

~~SECRET~~/ORCON/NOFORN

[redacted] (OGC) (FBI)

From: [redacted] (FBI)
Sent: Friday, April 30, 2004 12:56 PM
To: [redacted] (Div09) (FBI)
Subject: RE: Patriot Act sunset provisions ...

DECLASSIFIED BY 65179 DMH/CLS
ON 09-21-2005

CA# 05-CV-0845

b2
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b7E

~~SECRET~~ (U)

RECORD 66F-HQ-C1364260

[redacted]
I am unfamiliar with the specifics in the case. I sent your e-mail to [redacted] for details.

Please note that we're under an inspection and otherwise extremely busy here! But we'll try to get what you need as soon as we can.

b6
b7C

Also, any movement on the emergency pen and trap delegation issue? We recently had another case in which local authority was obtained in a kidnapping case while the FBI pondered using the federal process.

[redacted]
-----Original Message-----

From: [redacted] (Div09) (FBI)
Sent: Friday, April 30, 2004 12:32 PM
To: [redacted] (FBI)
Subject: FW: Patriot Act sunset provisions ...

b2
b6
b7C
b7E

~~SECRET~~ (U)

RECORD 66F-HQ-C1364260

-----Original Message-----

From: [redacted] (Div09) (FBI)
Sent: Friday, April 30, 2004 12:29 PM
To: [redacted]
Subject: RE: Patriot Act sunset provisions ...

b6
b7C

~~SECRET~~ (U)

RECORD 66F-HQ-C1364260

b2
b6

[redacted] - Thanks for your submission regarding the sunset provisions. I'm in the process of compiling these for the General Counsel. Do you think you could provide me more details on your Division's use of the Roving FISA surveillance? (see page 2 of your EC). In it you noted that this was used in conjunction with the [redacted] Division to [redacted] the need for roving surveillance? [redacted] I'm wondering what triggered [redacted] what you want as classified, I'll keep whatever markings you put on it. Feel free to label

b7C
b7E

Thanks for your help.

[redacted]
Assistant General Counsel
Investigative Law Unit
Office of the General Counsel

b6
b7C

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Friday, March 19, 2004 3:29 PM
To: [REDACTED] (Div09) (FBI)
Cc: [REDACTED]
Subject: Patriot Act sunset provisions ...
Importance: High

b2

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[REDACTED]:

The deadline for submission of our response is today. To assure timely receipt, the [REDACTED] Division response is attached. ACS and paper copies will follow.

b2

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Please note that the EC is classified "~~SECRET~~."

b7E

[REDACTED]

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET~~

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET~~

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET~~

~~SECRET~~

DATE: 12-07-2005
CLASSIFIED BY 65179 DHM/LP/CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-07-2030

[REDACTED] (OGC) (FBI)

From: [REDACTED] (Div09) (FBI)

Sent: Tuesday, May 04, 2004 1:38 PM

To: [REDACTED] (FBI)

Subject: Sunset Provisions

DATE: 09-21-2005
CLASSIFIED BY 65179 DHM/CLS
REASON: 1.4 (C)
DECLASSIFY ON: 09-21-2030
CA# 05-CV-0845

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~~SECRET//ORCON,NOFORN~~
~~RECORD 66F-HQ-C1364260~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

b6 , b7C

[REDACTED] I'm still working hard on this. I want to include the following summaries from your EC. I've still classified them as ~~SECRET~~, but want to ensure that I'm accurately stating the facts. Could you please proof these for me. I included the file number at the end only for your reference. I don't intend to include that with my final version nor that these came from [REDACTED] (that is for my reference purposes only.)

b2

b7E

Thanks so much for all your help.

b6 , b7C

(S)

(S)

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations~~
~~DECLASSIFICATION EXEMPTION 1~~
~~SECRET//ORCON,NOFORN~~

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b7E

~~SECRET~~

DATE: 12-07-2005
CLASSIFIED BY 65179 DMH/LP/CMC
REASON: 1.4 (C)
DECLASSIFY ON: 12-07-2030

~~SECRET~~

b2

b6

b7C

[REDACTED] (OGC) (FBI)

From: [REDACTED] (FBI)

Sent: Tuesday, May 04, 2004 2:05 PM

To: [REDACTED] (Div09) (FBI)

Subject: RE: Sunset Provisions

DATE: 09-21-2005
CLASSIFIED BY 65179 DMH/CLS
REASON: 1.4 (C)
DECLASSIFY ON: 09-21-2030
CA# 05-CV-0845

b7E

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

SECRET//ORCON,NOFORN
RECORD 66F-HQ-C1364260

I am familiar with this case and information and your written paragraphs accurately state this material. We appreciate your assistance in defending our use of these techniques! [REDACTED]

b6

b7C

-----Original Message-----

From: [REDACTED] (Div09) (FBI)

Sent: Tuesday, May 04, 2004 1:38 PM

To: [REDACTED] (FBI)

Subject: Sunset Provisions

b2

b6

b7C

SECRET//ORCON,NOFORN
RECORD 66F-HQ-C1364260

b7E

[REDACTED] I'm still working hard on this. I want to include the following summaries from your EC. I've still classified them as ~~SECRET~~, but want to ensure that I'm accurately stating the facts. Could you please proof these for me. I included the file number at the end only for your reference. I don't intend to include that with my final version nor that these came from [REDACTED] (that is for my reference purposes only.)

b2

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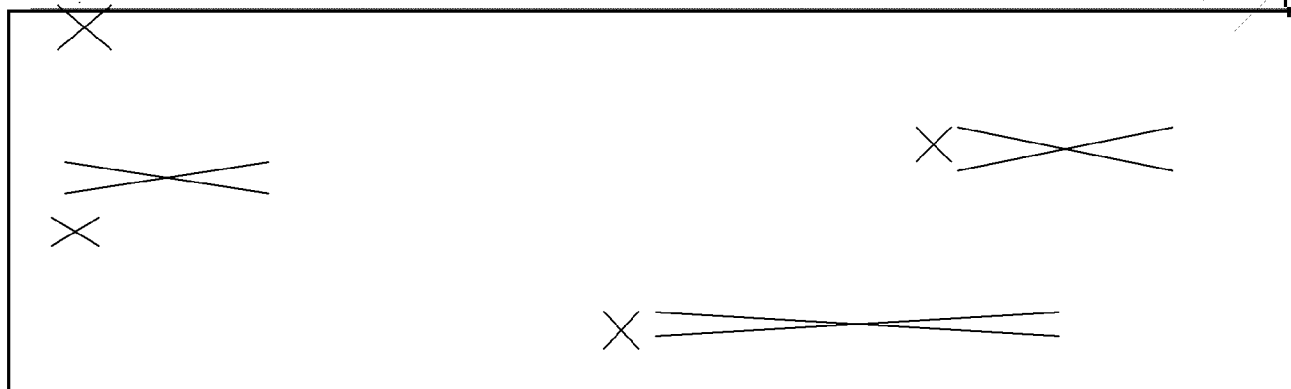
b7C

Thanks so much for all your help.

b7E

[REDACTED]

b6 , b7C



~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations~~
~~DECLASSIFICATION EXEMPTION 1~~
~~SECRET//ORCON,NOFORN~~

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~~SECRET~~

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations~~
~~DECLASSIFICATION EXEMPTION 1~~
~~SECRET//ORCON,NOFORN~~

6/7/2005

[redacted] (OGC) (FBI)

From: [redacted] (FBI)

b2

DECLASSIFIED BY 65179 DMH/CLS
ON 09-21-2005

Sent: Thursday, May 06, 2004 12:40 PM

b6

CA# 05-CV-0845

To: [redacted] (Div09) (FBI)

b7C

Subject: [redacted] example for PATRIOT ACT

b7E

~~SECRET~~

RECORD 315N: [redacted] 64028

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b7E

[redacted] I hope this meets your needs. Let me know if you need more. Hard copy is in the mail. Thanks [redacted]

b6

b7C

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations~~

~~DECLASSIFICATION EXEMPTION 1~~

~~SECRET~~

~~SECRET~~

CA# 05-CV-0845

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 04/30/2004

To: Investigative Law Unit

Attn: [REDACTED]

b6

Counterterrorism

b2

SSA [REDACTED]

b7C

ITOS I, Conus 4, Tm 16

b7E

From: [REDACTED]

Squad 21

Contact: SSA [REDACTED]

Approved By: [REDACTED]

b2

Drafted By: [REDACTED]

aem

b6

Case ID #: (U) 66F-HQ-C1364260 (Pending)

b7C

Title: (U) US PATRIOT ACT
SUNSET PROVISIONS

b2

b7E

Synopsis: (U) Provide detailed "Tear Line" summary of [REDACTED] example of the benefits of information sharing, through the PATRIOT ACT, regarding parallel criminal and intelligence cases on one subject.

~~(S)~~

~~Derived From: G-3~~

~~Declassify On: X1~~

Reference: (U) 66F-HQ-C1364260 Serial 5

b2

(U) 29E [REDACTED] 64536

b7E

(U) 315N [REDACTED] 64028

Administrative: (U) E-mail from ITOS 1, dated 04/30/04.

Details: (U) Above reference Serial requested offices to provide the Investigative Law Unit (ILU), OGC, with "statistics, good examples or anecdotes... summarizing the benefits the office has received from the (PATRIOT ACT) provisions...." [REDACTED] complied with this request. [REDACTED] was recently re-contacted by ILU to provide more details on the example [REDACTED] provided regarding information sharing.

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(U) ~~(S)~~ As requested by ILU, [REDACTED] is providing ILU with a summary of the parallel criminal and intelligence

~~SECRET~~

~~SECRET~~

To: ?? From: [REDACTED]
Re: (U) 66F-HQ-C1364260, 04/30/2004

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investigations regarding subject [REDACTED] which resulted in the successful prosecution and deportation of the subject.

[REDACTED]

(S)

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(U) Therefore, for the benefit of ILU, [REDACTED] is providing both a detailed classified summary, followed by a "Tear-Line" summary, approved by [REDACTED] and ITOS 1, for the use of ILU.

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~~Classified Summary Background:~~

[REDACTED]

(S)

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[REDACTED]

(S)

~~SECRET~~

~~SECRET~~

b2

To: ?? From: [REDACTED]
Re: (U) 66F-HQ-C1364260, 04/30/2004

b7E

(S)

[REDACTED]

[REDACTED]

(S)

[REDACTED]

(S)

(U) Outlined below, is an unclassified "Tear Line" summary for the use of ILU.

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-----Tear Line-----
Unclassified

Summary Background: In the aftermath of the September 11th terrorist attacks, a subject, [REDACTED]

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~~SECRET~~

To: ?? From: [REDACTED]
Re: (U) 66F-HQ-C1364260, 04/30/2004

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[REDACTED] was identified by a reliable asset as [REDACTED] among a group of Islamic extremists residing in the US. The Subject was an outspoken supporter of Osama Bin Laden and a self-proclaimed admirer of the September 11th terrorists. Early inquiries into the Subject's background disclosed the fact that [REDACTED]

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Due to Subject's extremist views, affiliations with other terrorism subjects, [REDACTED]

[REDACTED] Therefore, cited criminal case was opened. Early investigations confirmed that [REDACTED]

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As noted above, the subject was initially identified as a terrorist subject through asset reporting. Upon receipt of this asset information regarding his financial activities, a separate criminal investigation was opened. During the criminal investigation, asset reporting was continually passed to the criminal investigators to provide investigative lead information and important background and behavioral assessment information. Additionally, timely asset information also assisted in the successful planning and execution of Subject's arrest, after it

~~SECRET~~

~~SECRET~~

To: ?? From:
Re: (U) 66F-HQ-C1364260, 04/30/2004

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was determined that Subject was planning on leaving the country on short notice.

-----Tear Line-----

Set Lead 1: (Info)

COUNTERTEERRORISM

AT WASHINGTON, D.C.

~~SECRET~~

~~SECRET~~

To: ?? From:
Re: (U) 66F-HQ-C1364260, 04/30/2004

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(U) For information.

Set Lead 2: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For information.

~~SECRET~~

[redacted] (OGC) (FBI)

From: [redacted] (Div09) (FBI)

b6

DECLASSIFIED BY 65179 DMH/CLS
ON 09-21-2005

Sent: Tuesday, May 11, 2004 5:23 PM

b7C

CA# 05-CV-0845

To: [redacted] (Div09) (FBI)

Subject: Sunset Provisions

~~SECRET~~

b6

RECORD 66F-HQ-C1364260

b7C

[redacted] - Attached are the two documents I provided to OPA [redacted] The 1st document is the summary of the field survey that I'm currently putting together. I did leave in the classified portions for you. The 2nd document was a brief summary we provided to DOJ in March.

The consistent comment from the field was that the information sharing provisions (203 and 218) were the most important provisions in the Patriot Act. As you know, they have significantly altered the way we conduct business on a daily basis. This was a consistent point made in the field responses. They pointed to the joint task forces, better communications with other agencies, better working relationships across the board because they are no longer stifled by fear that they may inadvertently share information incorrectly, better use of resources, etc.

While we know that 218 opened the door for more communications from the intell to the criminal side, does NSLB have any opinion on what effect the expiration of 218 would have on the FISC court opinion? Would this essentially then rebuild the wall?

If I can help, please feel free to contact me.

[redacted]
x [redacted]

b2

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b7C

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations
DECLASSIFICATION EXEMPTION 1~~

~~SECRET~~

6/7/2005

~~SECRET~~

[redacted] OGC) (FBI)

CA# 05-CV-0845

From: [redacted] (Div09) (FBI)

b6

Sent: Tuesday, May 18, 2004 3:08 PM

b7C

To: [redacted] (Div00) (FBI)

Cc: [redacted] (Div00) (FBI); [redacted] (Div09) (FBI); BOWMAN, MARION E. (Div09) (FBI)

Subject: RE: Statistics re USA PATRIOT Act provisions

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 01-03-2006
CLASSIFIED BY 65179 dmh/baw 05-cv-0845
REASON: 1.4 (C)
DECLASSIFY ON: 01-03-2031

~~SECRET~~

[redacted] please be advised that the use of 215 mentioned below just refers to a field office having submitted requests. As of last week, we still had not received a business record order. There was a possibility that one went through this past Friday to the FISC, and we are still waiting to hear from OIPR as whether this in fact happened. We'll let you know no later than tomorrow what the response is.

b6

b7C

[redacted]

-----Original Message-----

From: [redacted] Div09) (FBI)

Sent: Tuesday, May 18, 2004 2:03 PM

To: [redacted] (Div00) (FBI); BOWMAN, MARION E. (Div09) (FBI); [redacted] (Div09) (FBI); [redacted] (Div09) (FBI)

b6

Cc: [redacted] Div00) (FBI)

b7C

Subject: RE: Statistics re USA PATRIOT Act provisions

UNCLASSIFIED
NON-RECORD

b6

[redacted] I can provide you the results from the field survey that OGC conducted, however, I can also guarantee that these are not entirely accurate numbers. The field survey was voluntary, and the level of detail provided varied between the field offices. Furthermore, since then I have been advised that some HQ divisions have been utilizing various Patriot Act tools, and I did not receive any contributions from any HQ division on this survey, so their use is not included in any numbers that I have.

b7C

The field offices reported the following:

(S) Section 206 - Roving FISA orders [redacted] times (S)
(S) Section 215 - Use [redacted] time [redacted] additional orders currently in approval process (S)

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Section 213 - Delayed Notice for Search Warrants - This is not a sunset provision, so we did not seek field input on this specific provision at this time.

Also - as you are aware, field offices collect statistics on their accomplishments (i.e. search warrants executed). I believe that Finance Division maintains, compiles, and reports these statistics. They may have more accurate field wide numbers.

I hope this is helpful.

[redacted]
Assistant General Counsel

~~SECRET~~

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b7C

6/7/2005

~~SECRET~~

Investigative Law Unit
Office of the General Counsel

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b6
b7C

-----Original Message-----

From: [REDACTED] Div00) (FBI)

Sent: Tuesday, May 18, 2004 1:41 PM

To: BOWMAN, MARION E. (Div09) (FBI); [REDACTED] (Div09) (FBI); [REDACTED]

[REDACTED] (Div09) (FBI); [REDACTED] Div09) (FBI)

Cc: [REDACTED] Div00) (FBI)

Subject: Statistics re USA PATRIOT Act provisions

Importance: High

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~~UNCLASSIFIED~~
~~NON-RECORD~~

In anticipation of the Director's scheduled appearance before the Senate Judiciary Committee this Thursday, May 20th, we are trying to confirm the number of times we have used Delayed Notice (so-called "Sneak and Peek") Warrants, FISA Roving Wiretaps, and FISA Orders for Tangible Things (i.e., so-called Section 215 Orders), since passage of the USA PATRIOT Act.

I realize there are several potential complications with compiling such numbers (e.g., Delayed Notice Warrants used in traditional criminal cases, classification issues re 215 Orders, etc.). Nevertheless, if any of you could provide some input on this, it would be very helpful. We can almost guarantee the Director will be asked about the numbers when he testifies.

Is DOJ compiling numbers? Is there anyone at OLP or OIPR who may know?

Thanks,

[REDACTED]
Office of Congressional Affairs
ext [REDACTED]

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~~UNCLASSIFIED~~

~~SENSITIVE BUT UNCLASSIFIED~~

~~SECRET~~

6/7/2005

[redacted] (OGC) (FBI)

From: [redacted] (FBI) **b2**
Sent: Friday, July 02, 2004 1:57 PM **b6**
To: [redacted] (OGC) (FBI) **b7C**
Subject: RE: Sunset Provisions - Roving FISA order **b7E**

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 DATE 09-21-2005 BY 65179 DMH/CLS
 CA# 05-CV-0845

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

[redacted] I believe we used the roving FISA on [redacted] not [redacted]. These are related cases, but two separate cases, file numbers and FISA requests. I believe the roving part [redacted] so you can use as much of the press release information as you would like.

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 b7C

I hope I did not confuse the matter.

[redacted]

b6
 b7C

b2
 b5
 b6
 b7A
 b7C
 b7E

-----Original Message-----

From: [redacted] (OGC) (FBI)
Sent: Tuesday, June 22, 2004 12:01 PM
To: [redacted] (FBI)
Subject: RE: Sunset Provisions - Roving FISA order

b2
 b6
 b7C
 b7E

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

[redacted] - I'm making final revisions to my summary of examples where we used the various Sunset provisions found in the Patriot Act. As you may recall, you had responded that the [redacted] Now that there has been a public indictment and press release on this case, how would you like me to cover this example? [redacted] I assume that it is [redacted] use with the specifics of this case that make it classified. Am I correct?

Thanks for your input. -- [redacted] (x) [redacted]

b2 , b6, b7C

-----Original Message-----

From: [redacted] (FBI)
Sent: Monday, May 03, 2004 1:20 PM
To: [redacted] (Div09) (FBI)
Subject: RE: Sunset Provisions - Roving FISA order

b2
 b6
 b7C
 b7E

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

Hi [redacted] the case I was referring to was the [redacted] case and the spin-off cases against [redacted] 315N, 71500 and [redacted] 315N, 71501. The technique used was I believe [redacted] These cases are still pending and are highly classified due to the FISA and other techniques being used.

b2
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 b7E

[redacted]

b6
 b7C

6/7/2005

-----Original Message-----

From: [REDACTED] (Div09) (FBI)
Sent: Friday, April 30, 2004 12:07 PM
To: [REDACTED] (FBI)
Subject: FW: Sunset Provisions - Roving FISA order

b2
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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

-----Original Message-----

From: [REDACTED] (Div09) (FBI)
Sent: Friday, April 30, 2004 12:03 PM
To: [REDACTED] (FBI)
Subject: Sunset Provisions - Roving FISA order

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

[REDACTED] - Thanks for your response to our call to the field for examples using the sunset provisions. I'm compiling the results for the GC. In your EC, you noted that the [REDACTED] RA JTTF [REDACTED] Can I get more info on this use? It seems like a good case to include as an example. Also let me know how you want it classified. You noted it was still an ongoing case, so should we classify it? or just label it law enforcement sensitive?

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b7E

Thanks.

[REDACTED]

b6
b7C

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

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SENSITIVE BUT UNCLASSIFIED

~~SECRET~~

Page 1 of 1

CA# 05-CV-0845

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WHERE SHOWN OTHERWISE

[REDACTED] (OGC) (FBI)

From: [REDACTED] (OGC) (FBI)

Sent: Tuesday, July 06, 2004 11:28 AM

To: [REDACTED] (CTD) (FBI)

b6

Subject: Additional case information - Patriot Act Examples

b7C

~~SECRET//ORCON,NOFORN~~
~~RECORD 66F-HQ-C1364260~~

b6

b7C

b2

In finalizing my summary of Patriot Act examples, I've come across some great cases out of [REDACTED] however, I need some additional information in order to make the connection to how the Patriot Act provisions were indeed helpful. Is there someone in your office that might be familiar with these cases that I could speak to briefly?

b7E

The cases are as follows:

[REDACTED] (S)

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b7E

Thank you.

[REDACTED]
Assistant General Counsel
Investigative Law Unit
Office of the General Counsel

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b7C

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations~~
~~DECLASSIFICATION EXEMPTION 1~~
~~SECRET//ORCON,NOFORN~~

~~SECRET~~

6/7/2005

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DATE 09-26-2005 BY 65179 DMH/CLS

[REDACTED] (OGC) (FBI)

CA# 05-CV-0845

From: [REDACTED] (OGC) (FBI)

b6

Sent: Friday, July 02, 2004 3:39 PM

b7C

To: [REDACTED] (CTD) (FBI)

Cc: [REDACTED] (OGC) (FBI) [REDACTED] (OGC) (FBI) [REDACTED] (OCA)
(FBI)

Subject: Case examples for Sunset Provisions of the Patriot Act

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

b6

[REDACTED] - As per our conversation earlier today, attached please find a WP document which lists many cases the field offices provided to me as examples of our use of the Patriot Act. I have organized this list based upon the section of the Act that was utilized. For most of these cases, I have very limited information regarding the case, so the case summaries you mentioned would be very helpful. Where I had additional information, I included a brief statement that may assist CTD in determining how the Patriot Act was useful to that case. I hope this is helpful to CTD as they collect examples.

b7C

If I can be of further assistance, please feel free to contact me or the National Security Law Branch.

[REDACTED]
Assistant General Counsel
Investigative Law Unit
Office of the General Counsel
[REDACTED]

b2

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b7C

SENSITIVE BUT UNCLASSIFIED

6/7/2005

DECLASSIFIED BY 65179 DMH/CLS
ON 09-26-2005
CA# 05-CV-0845

[REDACTED] (OGC) (FBI)

From: [REDACTED] (OGC) (FBI)

b6

Sent: Tuesday, July 06, 2004 5:49 PM

b7C

To: [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI)

Subject: Synopsis of Field Response for use of Patriot Act Sunset Provisions

~~SECRET//ORCON,NOFORN~~
RECORD 66F-HQ-C1364260

b6

b7C

[REDACTED] Attached is my draft synopsis of the field response to our survey this spring on the use of the sunset provisions to the Patriot Act. As you will see, it includes a brief paragraph describing the provision, general comments from the field and the number of times the field reported using a provision, along with more specific examples.

I plan to do my final review of this document on Friday morning, however, wanted to provide you an opportunity to review it over the next several days if you desire. I plan to seek OGC approval to release this document to CAO on Friday so that they may respond to the DCI's request for examples.

If you have any questions, I'll be happy to answer them on Friday.

[REDACTED]

b6

b7C

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations~~
~~DECLASSIFICATION EXEMPTION 1~~
~~SECRET//ORCON,NOFORN~~

6/7/2005

DECLASSIFIED BY 65179 DMH/CLS
ON 09-26-2005

CA# 05-CV-0845

[REDACTED] (OGC) (FBI)

From: [REDACTED] (CTD) (FBI)

Sent: Friday, July 09, 2004 1:39 PM

To: [REDACTED] (OCA) (FBI); BOWMAN, MARION E. (OGC) (FBI); [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI); [REDACTED] (CD) (FBI)

Cc: VAN DUYN, DONALD N. (CTD) (FBI); [REDACTED] (OCA) (FBI); [REDACTED] (OCA) (FBI); [REDACTED] (OCA) (FBI); [REDACTED] (OCA) (FBI); [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI)

Subject: RE: Tasking from DCI - Renewed Request for PATRIOT Act Examples

~~SECRET~~

RECORD 66F-HQ-A1413614-G

b6

b7C

Attached are the case write ups from CTD (ITOS I) that we discussed previously.

b6

b7C

-----Original Message-----

From: [REDACTED] (OCA) (FBI)

Sent: Friday, July 09, 2004 1:04 PM

To: BOWMAN, MARION E. (OGC) (FBI); [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI); [REDACTED] (CTD) (FBI); [REDACTED] (CD) (FBI)

Cc: VAN DUYN, DONALD N. (CTD) (FBI); [REDACTED] (OCA) (FBI); [REDACTED] (OCA) (FBI); [REDACTED] (OCA) (FBI); [REDACTED] (OCA) (FBI); [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI)

Subject: RE: Tasking from DCI - Renewed Request for PATRIOT Act Examples

UNCLASSIFIED

NON-RECORD

I agree that we should not try to meet during Director Tenet's visit. Will 11:00 work for others? Please let me know via email.

Thanks,

b6

b7C

-----Original Message-----

From: BOWMAN, MARION E. (OGC) (FBI)

Sent: Friday, July 09, 2004 11:04 AM

To: [REDACTED] (OCA) (FBI); [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI); [REDACTED] (CTD) (FBI); [REDACTED] (CD) (FBI)

Cc: VAN DUYN, DONALD N. (CTD) (FBI); [REDACTED] (OCA) (FBI); [REDACTED] (OCA) (FBI); [REDACTED] (OCA) (FBI); [REDACTED] (OCA) (FBI); [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI)

Subject: RE: Tasking from DCI - Renewed Request for PATRIOT Act Examples

6/7/2005

UNCLASSIFIED
NON-RECORD

This turns out to be a bad time as Director Tenet is being presented with an award at that time -- perhaps we could make it 1100?

-----Original Message-----

From: [redacted] (OCA) (FBI)
Sent: Thursday, July 08, 2004 3:56 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (CD) (FBI); [redacted] (OGC) (FBI); [redacted] (CTD) (FBI); [redacted] (CD) (FBI)
Cc: VAN DUYN, DONALD N. (CTD) (FBI); [redacted] (OCA) (FBI); [redacted] (OCA) (FBI); BOWMAN, MARION E. (OGC) (FBI); [redacted] (OCA) (FBI); KELLEY, PATRICK W. (OGC) (FBI); [redacted] (OCA) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Tasking from DCI - Renewed Request for PATRIOT Act Examples
Importance: High

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UNCLASSIFIED
NON-RECORD

The Community Management staff has inquired about our progress in collecting examples of the FBI's utilization of the USA PATRIOT Act provisions that are due to sunset.

I am aware that ILU is preparing a report on the topic that should be largely completed by tomorrow. I am also aware that CTD has solicited some additional examples from field offices, with a deadline of COB tomorrow. I'm unsure whether NSLU has been able to gather any further examples, particularly FISA-related examples. Have the materials I provided from the EOUSA canvass proven helpful in tracking down any related FBI examples?

Please try to collect your best examples for inclusion in the classified report being prepared by the Community Management staff as soon as possible.

Also, please advise whether you would be available to meet with the Community Management reps next Tuesday, July 13 at 10:00 am, to discuss the examples gathered so far, and to agree upon a deadline for the completion of this tasking.

Thank you for your continued assistance on this matter,

[redacted]
OCA
[redacted]

b2
b6
b7C

-----Original Message-----

From: [redacted] (OCA) (FBI)
Sent: Thursday, July 01, 2004 9:29 AM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (CTD) (FBI); [redacted] (CD) (FBI)
Cc: VAN DUYN, DONALD N. (CTD) (FBI); [redacted] (OCA) (FBI); [redacted] (OCA) (FBI); BOWMAN, MARION E. (OGC) (FBI); [redacted] (OCA) (FBI); KELLEY, PATRICK W. (OGC) (FBI); [redacted] (OCA) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Tasking from DCI - Renewed Request for PATRIOT Act Examples
Importance: High

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b7C

6/7/2005

UNCLASSIFIED
NON-RECORD

Today's meeting has been postponed to allow us more time to firm up the FBI's examples. The meeting will be rescheduled for next week. In the meantime, please continue to review the materials previously provided, and contact the necessary personnel within your respective divisions/units to solicit additional examples of the FBI's utilization of the USA PATRIOT Act.

Thank you,

[Redacted]
OCA
[Redacted]

b2

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b7C

-----Original Message-----

From: [Redacted] (OCA) (FBI)
Sent: Tuesday, June 29, 2004 8:37 AM
To: [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI); [Redacted] (CTD) (FBI); [Redacted] (CD) (FBI)
Cc: VAN DUYN, DONALD N. (CTD) (FBI); [Redacted] (OCA) (FBI); [Redacted] (OCA) (FBI); BOWMAN, MARION E. (OGC) (FBI); [Redacted] (OCA) (FBI); [Redacted] (OCA) (FBI); KELLEY, PATRICK W. (OGC) (FBI); [Redacted] (OCA) (FBI)
Subject: RE: Tasking from DCI - Renewed Request for PATRIOT Act Examples
Importance: High

b6

b7C

UNCLASSIFIED
NON-RECORD

Due to today's planned evacuation drill, the meeting with [Redacted] reps has been postponed until Thursday at 11:00 am.

b2

Please advise if you will be able to attend.

Thank you,

[Redacted]
OCA
[Redacted]

b2

b6

b7C

-----Original Message-----

From: [Redacted] (OCA) (FBI)
Sent: Friday, June 25, 2004 11:10 AM
To: [Redacted] (CTD) (FBI); [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI); [Redacted] (CD) (FBI)
Cc: VAN DUYN, DONALD N. (CTD) (FBI); [Redacted] (OCA) (FBI); [Redacted] (OCA) (FBI); BOWMAN, MARION E. (OGC) (FBI); [Redacted] (OCA) (FBI); KELLEY, PATRICK W. (OGC) (FBI); [Redacted] (CTD) (FBI); [Redacted] (OCA) (FBI)
Subject: Tasking from DCI - Renewed Request for PATRIOT Act Examples
Importance: High

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UNCLASSIFIED
NON-RECORD

Your assistance is needed on the following tasking:

In letters dated March 23, April 28, and June 14, 2004, Sen. Dianne Feinstein has requested the Attorney General (AG) and the Director of Central Intelligence (DCI) to undertake a comprehensive review of the implementation of the USA PATRIOT Act. Sen. Feinstein's most recent letter, which includes her earlier letters as enclosures, is attached (see email from ExecSec).

Sen. Feinstein's letters coincide with DOJ's own efforts to compile examples of PATRIOT Act successes for congressional testimony, required reports, and related purposes. As most of you know, the FBI has frequently been tasked with collecting such examples.

In an effort to respond to Sen. Feinstein and to create a comprehensive report on the PATRIOT Act that can be used for different purposes, the AG and DCI agreed to the following division of labor: DOJ agreed to prepare a section-by-section legal analysis of the Act and an unclassified report on the Act's implementation. Meanwhile, the DCI (through the Legal Counsel for the Deputy DCI for Community Management) agreed to draft a classified report containing examples of different PATRIOT Act provisions, particularly the sixteen provisions due to expire in 2005.

Drafts of DOJ's section-by-section analysis and the unclassified report are attached. Both of these are in draft form, so they should not be distributed as finished products. Nevertheless, I'm told that both are close to completion.

Earlier this week, the FBI was tasked with providing input for the classified report on the sixteen provisions due to sunset. Specifically, we have been asked to compile ten to fifteen "examples that reflect the FBI's use of these provisions and how they have enhanced the accomplishment of the FBI's mission."

I had hoped that we might already have sufficient examples from prior taskings to satisfy this request, but it appears that we may have purposely avoided compiling classified examples, and many of our unclassified examples have apparently been included in DOJ's draft report. Accordingly, I am seeking your assistance in compiling additional PATRIOT Act examples.

There is some good news here: In the process of preparing the attached unclassified report, DOJ canvassed all of the US Attorneys across the country for examples. While most provided unclassified examples, many also provided classified examples. I met with Matthew Berry in DOJ's Office of Legal Policy and obtained copies of these classified examples. This morning, I will deliver copies of this material, as well as the tasking from the DCI and related materials prepared by the FBI in March, to each of the recipients in the "to" line above.

My preliminary review of the classified materials supplied by US Attorneys suggests we will need to do some follow-up to come up with good examples. Presumably, however, most of the examples are derived from FBI cases, so we should have a good head start.

Ideally, the DCI would like to receive our examples by next Friday, July

6/7/2005

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2, 2004. [redacted] and FBI Detailee [redacted] are coordinating this effort for the Intelligence Community (IC). They would like to meet with us next Tuesday, June 29, 2004 to talk about the project. I'm hoping that, by Tuesday morning, we can review the materials from DOJ and reexamine any PATRIOT Act examples compiled in response to previous taskings, so they we can provide [redacted] and [redacted] with a realistic estimate of the examples already collected, and the time needed to put them into final form. It is my hope that we may have enough raw material to develop the requested examples, but I will need your input in making this assessment and collecting any additional facts.

Please respond by email or phone regarding your availability for a meeting on Tuesday morning, June 29, at 10:00 am (here at FBIHQ) to discuss this matter further with our colleagues from the IC. (Those copied on this email are also welcome to attend.)

Thank you very much,

[redacted]
Office of Congressional Affairs
ext. [redacted]

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UNCLASSIFIED

~~DERIVED FROM: Multiple Sources~~

6/7/2005

~~DECLASSIFICATION EXEMPTION 1~~
~~SECRET~~

6/7/2005

DECLASSIFIED BY 65179 DMH/CLS
ON 09-26-2005
CA# 05-CV-0845

[REDACTED] (OGC) (FBI)

From: [REDACTED] (OGC) (FBI).

Sent: Friday, July 09, 2004 4:34 PM

b6

To: [REDACTED] (OGC) (FBI)

b7C

Subject: Patriot Act Sunset Provisions: Summary of Field Survey

~~SECRET//ORCON,NOFORN~~
~~RECORD 66F-HQ-C1364260~~

b6

b7C

[REDACTED] - Attached is the draft summary of the field survey we conducted seeking input on the sunset provisions. As you are aware, I am continuing to update this with additional examples provided by CTD. However, is OGC sufficiently satisfied with the current version to release this to OCA so that they may develop a response to letters from Senator Feinstein and any other congressional responses as they see fit?

Please feel free to contact me if you have any additional questions.

Thanks --

[REDACTED]

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~~DECLASSIFICATION EXEMPTION 1~~
~~SECRET//ORCON,NOFORN~~

6/7/2005

~~SECRET~~

[REDACTED] (OGC) (FBI)

From: [REDACTED] (FBI)

b2

Sent: Friday, July 09, 2004 5:01 PM

b7C

To: [REDACTED] (OGC) (FBI)

b7E

Subject: FW:

Follow Up Flag: Follow up

DATE: 12-07-2005

Flag Status: Flagged

CLASSIFIED BY 55179 DHM LP CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-07-2030

DATE: 09-26-2005
CLASSIFIED BY 65179 DMH/CLS
REASON: 1.4 (C)
DECLASSIFY ON: 09-26-2030
CA# 05-CV-0845

~~SECRET~~
~~RECORD~~

b2 , b7A, b7E

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

[REDACTED] I heard back from the Case Agent. He's provided the file number of the three cases alluded to in the b2
FISA trap & pen section of [REDACTED] 03/19/2004 EC re the use of PATRIOT Act authorities.

b6

[REDACTED] b2 , b6, b7C, b7E

b7C

-----Original Message-----

From: [REDACTED] (FBI)

b1

Sent: Friday, July 09, 2004 3:42 PM

b2

To: [REDACTED] (FBI)

b2 , b6, b7C, b7E

Subject:

b7A

b7E

~~SECRET~~
~~RECORD~~

b2 , b7A, b7E

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~~DECLASSIFICATION EXEMPTION 1~~

~~SECRET~~

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations~~
~~DECLASSIFICATION EXEMPTION 1~~

~~SECRET~~

~~SECRET~~

DATE: 09-26-2005
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REASON: 1.4 (C)
DECLASSIFY ON: 09-26-2030
CA# 05-CV-0845

DATE: 12-07-2005
CLASSIFIED BY 65179 DHM LP CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-07-2030

~~SECRET~~

~~SECRET/ORCON/NOFORN~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE b1

[REDACTED] (S)

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(U) Background Information:

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b7E

Section 203 - Information Sharing :

(U) The [REDACTED] has been utilizing Federal Grand Jury Subpoenas to obtain financial records, telephone records, Internet usage and liaison with local law enforcement intelligence branches.

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b7E

~~SECRET~~

~~SECRET/ORCON/NOFORN~~

DECLASSIFIED BY 65179 DMH/CLS
ON 09-26-2005

[redacted] (OGC) (FBI)

From: [redacted] (OGC) (FBI)

Sent: Tuesday, July 13, 2004 7:03 PM

b6

To: [redacted] (OGC) (FBI)

b7C

Subject: Sunset Examples

~~SECRET//ORCON,NOFORN~~
~~RECORD 66F-HQ-C1364260~~

[redacted] Attached is my final version of the sunset examples. I've incorporated some of the CTD examples. [redacted] (NSLB) should be in touch with you tomorrow with additional information on the remainder of the CTD examples. (The SA she needed to speak with was out of the office today.) We found that some of the case examples provided by CTD did not in fact rely upon any of the sunset provisions at all, so they fell out of the analysis. (not unexpectedly)

You will also see that I added two paragraphs addressing the [redacted] case as I mentioned. I do think this bolsters the argument that we need to ensure that 209 does not sunset, especially since we do not have many examples of using this provision.

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I also added a computer trespasser exception example that involves a hack into the [redacted] computer systems. [redacted] at [redacted] is my source for almost all the 217 examples). [redacted] was going to check with the [redacted] to ensure that they will not be upset if this is used. I told him that we will assume my current summary is OK unless he contacts you tomorrow.

I think this should be sufficient. However, feel free to contact me if you need anything further. You can reach me either at home or via my cell phone [redacted] over the next two days. I plan to be here on Friday if this is still hanging on by then.

Thanks --

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[redacted]

b7C

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~~DECLASSIFICATION EXEMPTION 1~~
~~SECRET//ORCON,NOFORN~~

6/7/2005

~~SECRET~~

DATE: 10-21-2005
CLASSIFIED BY 65179 DMH/CLS
REASON: 1.4 (C)
DECLASSIFY ON: 10-21-2030

[REDACTED] (OGC) (FBI)

CA# 05-CV-0845

From: [REDACTED] (OGC) (FBI)

b6

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Sent: Wednesday, July 14, 2004 1:05 PM

b7C

To: [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI)

Cc: [REDACTED] (OGC) (FBI)

Subject: Sunset Provisions

DATE: 12-07-2005
CLASSIFIED BY 65179 DHM LP CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-07-2030

~~SECRET~~
RECORD xxxx

[REDACTED] and [REDACTED] - I reviewed the summaries for the following cases:

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[REDACTED] (SSA)
[REDACTED] (SSA)
[REDACTED] (SSA)
[REDACTED] (SSA)
[REDACTED] (SSA)
[REDACTED] (SSA)
[REDACTED] (SSA)

[REDACTED] (S)

I added information to each one of these summaries (most often at the end) to reflect why the provision was important to the investigation. With respect to [REDACTED] SSA [REDACTED] believes that this summary should be deleted as it does not implicate any PATRIOT Act provisions. I have also noted within the document two instances [REDACTED] and [REDACTED] in which SSA [REDACTED] believed that the summaries actually refer to other provisions. We have marked those and noted the more-applicable provisions.

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If you have any questions, please let me know. Thanks. [REDACTED]

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~~DECLASSIFICATION EXEMPTION 1~~
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~~SECRET~~

Message

~~SECRET~~
DATE: 12-07-2005
CLASSIFIED BY: 65179 DMH/CLS
REASON: 1.4 (C)
DECLASSIFY ON: 89-27-2030

Page 1 of 2

ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

CA# 05-CV-0845

~~SECRET~~

[redacted] (OGC) (FBI)

From: [redacted] (OGC) (FBI)

b6

Sent: Thursday, July 15, 2004 12:47 PM

b7C

To: [redacted] (OGC) (FBI)

DATE: 12-07-2005
CLASSIFIED BY: 65179 DMH LP CWC
REASON: 1.4 (C)
DECLASSIFY ON: 12-07-2030

Subject: RE: Patriot Act Sunset Provisions: Summary of Field Survey

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~~SECRET//ORCON,NOFORN~~
RECORD 66F-HQ-C1364260

b7C

[redacted] Met with [redacted] and [redacted] and we finally nailed down which of the CTD examples should be included and which should not. I've listed them below--but I do not know for sure whether you have already included them (since you deleted names, etc, I am not sure in many cases) so, please review and if you have not included them, let's fold them in and we are then ready to send to [redacted] Send to me first and I will comment as I pass them to [redacted]

Section 201 -- nothing [redacted] was a bust)

Section 203:

[redacted]

(S)

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Section 206 -- Roving FISA -- nothing more than you already have -- the [redacted] case is out because they never got [redacted]

Section 214

(S)

(S)

[redacted] (think you already have this one in)

[redacted] is out because they got a [redacted]

Section 218

[redacted]

(S)

Section 220

6/7/2005

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~~SECRET~~

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-----Original Message-----

From: [redacted] (OGC) (FBI)

Sent: Friday, July 09, 2004 4:34 PM

To: [redacted] (OGC) (FBI)

Subject: Patriot Act Sunset Provisions: Summary of Field Survey

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b7C

~~SECRET//ORCON,NOFORN~~
~~RECORD 66F-HQ-C1364260~~

[redacted] Attached is the draft summary of the field survey we conducted seeking input on the sunset provisions. As you are aware, I am continuing to update this with additional examples provided by CTD.

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Please feel free to contact me if you have any additional questions.

Thanks --

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~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations~~
~~DECLASSIFICATION EXEMPTION 1~~
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6/7/2005

FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

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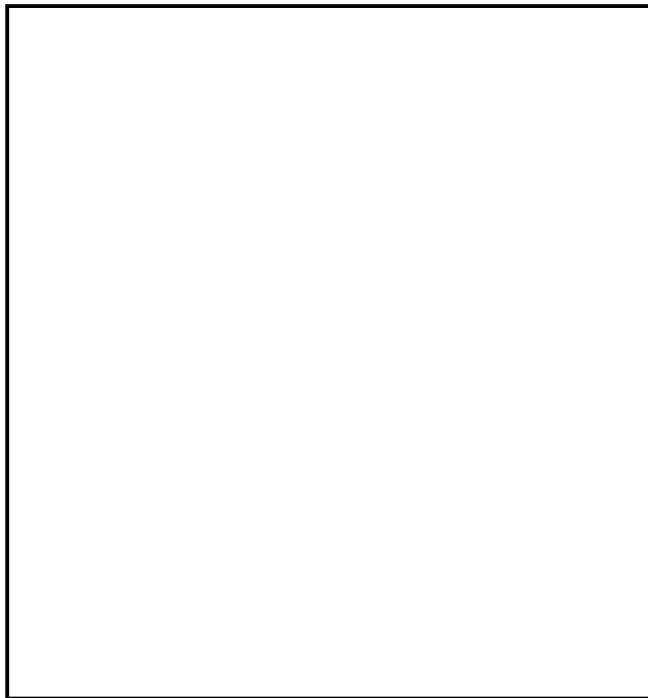
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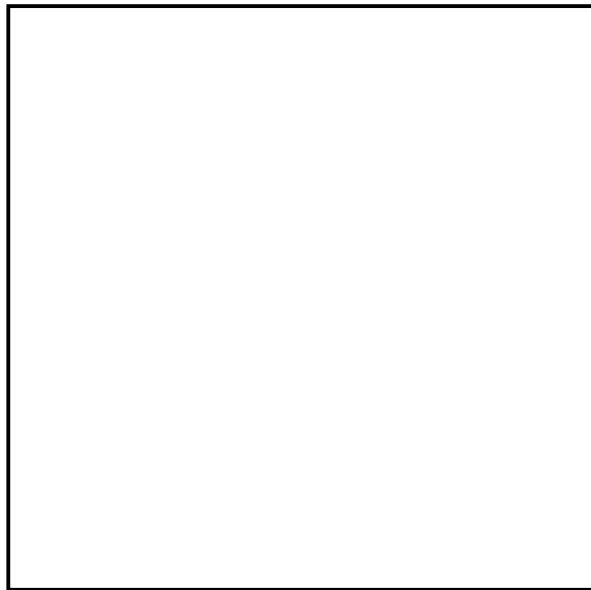
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b5

§207-extended
duration of
FISAs.

^{for OGC + SAS}
- allows FBI/DOJ
personnel to spend
time on new FISAs
rather than renewals.



b5

b6

b7C

Sounds like we got
location/tracking info
w/ a pen/trap order.

b5

From [] presentation

Patriot Act Overview

I. Substantive Criminal Offense:

A. Deterrence and Prevention of Cyberterrorism: 18 U.S.C. § 1030, Computer Fraud and Abuse Act.

1. makes explicit that a hacker need only intend damage, not a particular *type* of consequence or degree of damage;
2. adds a new offense for damaging computers used for national security or criminal justice (a)(5)(B);
3. makes explicit that the definition of "protected computer" includes computers in foreign countries so long as there is an effect on U.S. interstate or foreign commerce--so foreigner hacking through a U.S. computer violates 1030--allows US to assist in international hacker investigation or gives US option of prosecuting such criminals in the U.S.;
4. allows losses to several computers from a hacker's course of conduct to be aggregated for purposes of meeting the \$5,000 jurisdictional threshold under (a)(5)(B).
5. Adds definition of "loss" as including "any reasonable cost to any victim..."
6. increases penalties for hackers who damage protected computers (from a maximum of 10 years for first offenders & a maximum of 20 years for repeat offenders) also eliminated mandatory minimum;
7. counts state convictions as "prior offenses" for purpose of recidivist sentencing enhancements

II. Investigative Tools: Most provisions will sunset December 31, 2005.

- A. **Predicate Offenses:** Amends 18 U.S.C. § 2516(1): adding felony violations of 18 U.S.C. § 1030 to the list of predicate offenses,¹ authorizing wiretap order to intercept *wire* communications (those involving the human voice). Also adds Terrorism offenses as predicate offenses.
- B. **Obtaining Voice-mail and Other Stored Voice Communications:** stored wire communications are covered under the same rules as stored electronic communications. Thus, law enforcement can now obtain such communications using the procedures set out in section 2703 (such as a search warrant), rather than those in the wiretap statute (such as a wiretap order).
- C. **Scope of Subpoenas for Electronic Evidence:** expands list of "basic subscriber" records that law enforcement authorities may obtain with a subpoena. The new subsection 2703(c)(2) includes "records of session times and durations," as well as "any temporarily assigned network address." In the Internet context, such records include the Internet Protocol (IP) address assigned by the provider to the customer or subscriber for a particular session, as well as the remote IP address from which a customer connects to the provider. Moreover, the amendments clarify that investigators may use a subpoena to obtain the "means and source of payment" that a customer uses to pay for his or her account with a communications provider, "including any credit card or bank account number.
- D. **Emergency Disclosures by Communications Providers:**
1. amends subsection 2702(b)(6) to permit, but not require, a service provider to disclose to law enforcement either content or non-content customer records in emergencies involving an immediate risk of death or serious physical injury to any person. This voluntary disclosure, however, does not

¹ This amendment does not affect applications to intercept *electronic* communications in hacking investigations. As before, investigators may base an application to intercept electronic communications on any federal felony criminal violation. 18 U.S.C. § 2516(3).

create an affirmative obligation to review customer communications in search of such imminent dangers.

2. clarifies that service providers *do* have the statutory authority to disclose non-content records to protect their rights and property. (subsection 2702(c)(3)).

E. Intercepting the Communications of Computer Trespassers

1. allows victims of computer attacks to authorize persons “acting under color of law” to intercept the communications of a computer trespasser transmitted to, through, or from a protected computer.² Both criminal and intelligence investigations qualify, but the authority to intercept ceases at the conclusion of the investigation.
2. Four requirements must be met before monitoring can occur:
 - a. the owner or operator of the protected computer must authorize the interception of the trespasser’s communications.
 - b. the person who intercepts the communication must be lawfully engaged in an ongoing investigation.
 - c. the person acting under color of law must have reasonable grounds to believe that the contents of the communication to be intercepted will be relevant to the ongoing investigation.
 - d. investigators are permitted to intercept only the communications sent or received by trespassers. Thus, this section would only apply where the configuration of the computer system allows the interception of communications to and from the trespasser, and not the interception of non-consenting users authorized to use the computer.
3. Anticipate further DOJ/FBI guidance on procedures to document “consent”

F. Nationwide Search Warrants for Stored Communications:

1. allows investigators to use section 2703(a) warrants to compel records outside of the district in which the court is located, just as they use federal grand jury subpoenas and orders under section 2703(d).
2. This change enables courts with jurisdiction over investigations to compel evidence directly, without requiring the intervention of agents, prosecutors, and judges in the districts where major ISPs are located.

G. Authority for Delaying Notice of the Execution of a Warrant

1. amending 18 U.S.C. § 3103a to create a uniform statutory standard authorizing courts to delay the provision of required notice if the court finds “reasonable cause” to believe that providing immediate notification of the execution of the warrant may have an adverse result as defined by 18 U.S.C. § 2705 (including endangering the life or physical safety of an individual, flight from prosecution, evidence tampering, witness intimidation, or otherwise seriously jeopardizing an investigation or unduly delaying a trial). The section provides for the giving of notice within a “reasonable period” of a warrant’s execution, which period can be further extended by a court for good cause.
2. the Department may be providing additional guidance with respect to the use of this delayed notice provision. The Department expects that delayed notice will continue to be an infrequent exception to the general rule that notice of the execution of a warrant will be provided promptly.

H. Clarifying the Scope of the Cable Act: amends title 47, section 551(c)(2)(D), to clarify that ECPA, the wiretap statute, and the trap and trace statute govern disclosures by cable companies that relate to the provision of communication services – such as telephone and Internet services. The amendment preserves, however, the Cable Act’s primacy with respect to records revealing what ordinary cable television programming a customer

² “computer trespasser” is defined to include any person who accesses a protected computer (as defined in section 1030 of title 18) without authorization. In addition, the definition explicitly excludes any person “known by the owner or operator of the protected computer to have an existing contractual relationship with the owner or operator for access to all or part of the computer.” 18 U.S.C. § 2510(21).

J. **National Security:** all provisions below will sunset in December 2005

1. **Foreign Intelligence Information:** amends 50 U.S.C. 1804(a)(7)(B) and 1823(a)(7)(B) to permit FISA surveillance and search requests if they are for a “significant” intelligent gathering purpose, rather than “the” purpose. Suggests a recognition that parallel intelligence and criminal investigations may occur on the same target.
2. **Roving Surveillance:** expands FISA court orders to allow “roving” surveillance similar to Title III.
3. **Duration of FISA surveillance:** for electronic surveillance, the initial period authorized for 120 days (from 90 days) and extensions from 90 days to one year. For physical searches, the initial period authorized for 90 days (from 45).
4. **Pen Register and Trap and Trade Authority under FISA:** allows order based only on certification that the information obtained would be relevant to an on-going intelligence investigation when it is for the protection against international terrorism or clandestine intelligence activities, provided that investigations of U.S. persons is not based solely on First Amendment activities.
5. **Access to Records and Other Items under FISA:** Requires a FISA court order to obtain business records; allows any FBI designee no lower than Assistant Special Agent in Charge to apply to FISA court for ex parte order; limits the use of this authority to investigations to protect against international terrorism or clandestine intelligence activities; investigations of U.S. persons may not be based solely on First Amendment activities.

III. **Information Sharing and Other Provisions**

A. Authority to share criminal investigative information.


1. **Grand Jury Information:** Allows intelligence or counterintelligence or foreign intelligence information obtained in grand jury proceedings or otherwise as part of a criminal investigation to be shared with any Federal law enforcement, intelligence, protective, immigration, national defense, or national security official in order to assist the official receiving that information in the performance of his official duties.
 - a. Requires 6(e) notification to court after disclosure stating the fact that such information was disclosed and the departments, agencies, or entities to which disclosure was made.
2. **Title III Information:** Any investigative or law enforcement officer, or attorney for the Government, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents to any other Federal law enforcement, intelligence, protective, immigration, national defense, or national security official to the extent that such contents include foreign intelligence or counterintelligence (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)), or foreign intelligence information (as defined in subsection (19) of section 2510 of this title), to assist the official who is to receive that information in the performance of his official duties.
3. **Foreign Intelligence Information:** Notwithstanding any other provision of law, it shall be lawful for foreign intelligence or counterintelligence (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)) or foreign intelligence information obtained as part of a criminal investigation to be disclosed to any Federal law enforcement, intelligence, protective, immigration, national defense, or national security official in order to assist the official receiving that information in the performance of his official duties.

4. Recipient may use the information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information.
 5. *Attorney General must establish procedures for the disclosure of information pursuant to Title III and Rule (6)(e) that identifies a U.S. person.*
 6. Requires the Attorney General to disclose to the CIA Director foreign intelligence acquired by the Justice Department in the course of a criminal investigation, except when disclosing such information would jeopardize an ongoing investigation.
- B. Secret Service Jurisdiction: Amends 18 U.S.C. 1030(d)(1):
1. The United States Secret Service shall, in addition to any other agency having such authority, have the authority to investigate offenses under the Computer Fraud and Abuse Act.
 2. The Federal Bureau of Investigation shall have primary authority to investigate offenses under subsection (a)(1) for any cases involving espionage, foreign counterintelligence, information protected against unauthorized disclosure for reasons of national defense or foreign relations, or Restricted Data (as that term is defined in section 11y of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y))), except for offenses affecting the duties of the United States Secret Service pursuant to section 3056(a) of this title.
 3. Such authority shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.
- C. Expansion of National Electronic Crime Task Force Initiative.
1. Directs the Secret Service to develop a national network of electronic crime task forces, based on the New York Electronic Crimes Task Force model, for the purpose of preventing, detecting, and investigating various forms of electronic crimes, including potential terrorist attacks against critical infrastructure and financial payment systems.
- D. Development & Support of Cybersecurity Forensic Capabilities: Requires the Attorney General to establish regional computer forensic laboratories.

December 28, 2001

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CA# 05-CV-0845

See Red flag -
Is this DAG Memo
the one ?
Based EC on?
If so, read +
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Letter*

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 09-08-2005 BY 65179 dmh/clb

April 1, 2003

CA# 05-CV-0845

The Honorable John D. Ashcroft
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Attorney General Ashcroft:

As the Chairman and Ranking Member of the House Committee on the Judiciary, it is our responsibility to conduct oversight of the Department of Justice's efforts to combat terrorism, which includes implementation of the USA PATRIOT Act ("Act") signed into law by President Bush on October 26, 2001. In response to our letter of June 13, 2002, you provided us with information regarding the use of these new tools, which helped us to understand the complexity and extensive scope of the effort to implement the law.

The Department of Justice has also been faced with significant new challenges to which it has responded using existing authorities as well as those contained in the Act. This letter seeks information regarding the use of preexisting authorities and the new authorities conferred by the Act.

Unless otherwise indicated, please provide your responses to the Committee current through March 31, 2003. In addition, if any answer requires the disclosure of classified material, please provide those answers under separate cover to the Committee or to the House Permanent Select Committee on Intelligence ("HPSCI") in accordance with appropriate security procedures. We will review those responses under appropriate procedures that HPSCI and this Committee establish pursuant to the rules of the House.

To the extent that a question relates to the authority or operations of the Immigration and Naturalization Service, all of which have been transferred to the Department of Homeland Security ("DHS"), you may either answer the question or refer the questions to the appropriate official at DHS. If you refer the question to DHS, please notify us of the identity of the official to whom the question has been referred.

Please respond to the following questions:

USA PATRIOT Act

1. Section 215 of the Act amended 50 U.S.C. § 1861 to allow the FBI Director or his designee (who must hold the rank of Assistant Special Agent in Charge or higher) to apply for an order from the Foreign Intelligence Surveillance Court for "the production of tangible things (including books, records, papers, documents, and other items) for an investigation to protect against international terrorism or clandestine intelligence activities" Such an investigation may only be conducted under guidelines approved by the Attorney General under Executive Order 12333 (or a successor order). 50 U.S.C. § 1861(a)(2)(A).
 - A. What guidelines has the Attorney General approved under Executive Order 12333 or a successor order for the conduct of such investigations?
 - B. Before such an order can be sought, do the guidelines require that the FBI have already established

probable cause that a person under investigation is an agent of a foreign power? What is the Department's definition of "probable cause" and how has it changed since September 11, 2001?

- C. Please produce all guidelines approved under Executive Order 12333 or a successor order for the conduct of such investigations.
2. Such investigations also may not be conducted of a United States person solely on the basis of activities protected by the First Amendment to the Constitution of the United States. 50 U.S.C. § 1861(a)(2)(B). Other authorities under the Foreign Intelligence Surveillance Act ("FISA") are also subject to the limitation that an investigation of a United States person in which those authorities are used may not be conducted solely on the basis of activities protected by the First Amendment to the U.S. Constitution. See, e.g., 50 U.S.C. § 1842 (regarding pen register and trap and trace orders under FISA).
 - A. In seeking such orders, does the government make an explicit certification that an investigation of a United States person is not being conducted solely on the basis of activities protected by the First Amendment to the Constitution of the United States?
 - B. In issuing such orders, does the court make an express finding that an investigation of a United States person is not being conducted solely on the basis of activities protected by the First Amendment to the Constitution of the United States?
 3. The Department has increased the use of "national security letters" that require businesses to turn over electronic records about finances, telephone calls, e-mail and other personal information.
 - A. Please identify the specific authority relied on for issuing these letters.
 - B. Has any litigation resulted from the issuance of these letters (i.e. challenging the propriety of legality of their use)? If so, please describe.
 4. Has any administrative disciplinary proceeding or civil action been initiated under section 223 of the Act for any unauthorized disclosure of certain intercepts? If so, please describe each case, the nature of the allegations, and the current status of each case.
 5. In the Administration's 2004 Budget Request, DOJ is requesting \$22 million to establish an automated cross-case analytical system to facilitate sharing case specific information through the agencies that belong to the Organized Crime Drug Enforcement Task Force Program. These include law enforcement agencies in DOJ, the Department of Homeland Security, and the Department of Treasury. Is this system also intended to facilitate implementation of the authority to share criminal investigative information with intelligence officials under Section 203 of the Act? Will it be used for that purpose?
 6. What has been the role of the Department in establishing standards or procedures regarding implementation of the authorities provided in Section 358 (Bank Secrecy Provisions and Activities of United States Intelligence Agencies to Fight International Terrorism)? Please provide any written guidance regarding the requirements of that section that the Department has either issued or approved.
 7. What are the dollar amounts that have been paid under the reward authorities provided in Section 501 of the Act or the terrorism related awards under the newly enacted 28 U.S.C. § 530(C)(b)(1)(J)? How many non-U.S. citizens have received rewards under these authorities?
 8. The Administration's Office of Justice Programs 2004 Budget request includes a \$12 million increase for Regional Information Sharing System (RISS) improvements. The request refers to Section 701 of the USA PATRIOT Act

- and states that the requested increase will be used to expand RISS's accessibility to state and local public safety agencies to share terrorism alerts and related information. Please provide the Committee with a description of the management oversight process by which DOJ will ensure that the proposed expenditures will accomplish improvements in the U.S. information infrastructure and the specific improvements that are envisioned. Please provide copies of any guidance issued to state and local agencies with respect to the further dissemination of such materials.
9. Under section 213 of the USA PATRIOT Act, a court may order a delay in any notice of the execution of a search warrant if "the court finds reasonable cause to believe that providing immediate notification of the execution of the warrant may have an adverse result," which is defined as (1) endangering the life or physical safety of an individual; (2) flight from prosecution; destruction or tampering with evidence; (3) intimidation of potential witnesses; or (4) otherwise seriously jeopardizing an investigation or unduly delaying trial. Please respond to the following questions regarding the use of this authority:
 - A. How many times has the Department of Justice sought an order delaying notice of the execution of a warrant under this section?
 - B. How many times has a court ordered the delay in such notification?
 10. That same section allows the notice to be delayed when the warrant prohibits the seizure of among other things, any tangible property, unless "the court finds reasonable necessity for the seizure." 18 U.S.C. § 3103a (b)(2).
 - A. Since the enactment of that section, how many times has the government asked a court to find reasonable necessity for a seizure in connection with delayed notification under this section?
 - B. On what grounds has the government argued that seizure was reasonably necessary under a warrant for which the government also asked for delayed notification?
 - C. How often has a court found "reasonable necessity for the seizure" in connection with a warrant for which it also permitted delayed notification?
 - D. How often has a court rejected the government's argument that a seizure was reasonably necessary in connection with a warrant for which the government sought delayed notification?
 - E. On what grounds have the courts found that the seizures were reasonably necessary in connection with warrants for which delays in notification were granted?
 - F. What grounds have the courts rejected as establishing reasonable necessity for a seizure in connection with a warrant for which the government sought delayed notification?
 11. That same section allows a court to order delayed notice when "the warrant provides for the giving of such notice within a reasonable period of its execution, which may be extended for by the court for good cause show." 18 U.S.C. § 3103a(b)(3).
 - A. What are the shortest and longest periods of time for which the government has requested initial delayed notice?

- B. On what grounds has the government argued that the period of delayed notification was reasonable?
 - C. How often has the government sought an extension of the period of delayed notice?
 - D. On what grounds has the government asked for an extension of the period of delayed notice?
 - E. How often has a court rejected the government's request for delayed notification on the ground that the period for giving delayed notice was unreasonable?
 - F. On what grounds have the courts rejected the government's position that the period for giving delayed notice was reasonable?
 - G. How often has a court rejected the government's request for an extension of the period of delayed notification?
 - H. On what grounds have the courts rejected the government's argument that an extension of the period for delayed notice was reasonable?
12. On January 21, 2003, the *Wall Street Journal* published an article entitled "New Powers Fuel Legal Assault on Suspected Terrorists." That article claims that the Department of Justice is using information that was "previously largely unavailable" and that had been obtained from FISA surveillance to support criminal prosecutions. According to the article, this information is now available to prosecutors as a result of the FISA Review Court's decision regarding the meaning of the Act's amendment to FISA permitting the government to obtain a surveillance order when "a significant purpose," (rather than "the purpose") of the surveillance is to collect foreign intelligence.
- A. Prior to the FISA Review Court's decision, as long as surveillance was properly ordered for "the purpose" of collecting foreign intelligence, was there any legal impediment to prosecution of a crime using evidence obtained under FISA?
 - B. Please identify all cases brought since the FISA Review Court's decision that use information that was previously unavailable under FISA procedures.
 - C. Please explain why such information was unavailable and why it became available following the FISA Review Court's decision.
13. The FISA Review Court's decision permits enhanced coordination between law enforcement and intelligence officials.
- A. What FISA-related training is currently being planned or conducted?
 - B. What topics will it address?
 - C. Who will give the training?
 - D. Who will receive the training?
 - E. Is the training going to be coordinated with the Intelligence Community in general and/or the Director of Central Intelligence?

14. How many emergency FISA surveillance orders did the Department of Justice process between FISA's enactment and September 11, 2001? How many has it processed since September 11, 2001? Has the change from 24 to 72 hours in 50 U.S.C. 1805(f) and 1824(e) facilitated the use of FISA emergency searches and surveillance, and if so, how?
15. Since enactment of the USA Patriot Act, what procedures have been implemented to improve the efficiency of processing FISA applications?
16. In testimony presented to the Senate Judiciary on March 4, 2003, FBI Director Robert Mueller stated that:

The FBI's efforts to identify and dismantle terrorist networks have yielded major successes over the past 18 months. We have charged over 200 suspected terrorists with crimes - half of whom have been convicted to date. The rest are awaiting trial. Moreover, our efforts have damaged terrorist networks and disrupted terrorist plots across the country. In the past month alone, the FBI has arrested 36 international and 14 domestic suspected terrorists.

 - A. What authorities under the USA PATRIOT Act were used in identifying and dismantling terror networks and were relied upon to prevent terrorist plots?
 - B. In your judgment, how many of those investigations would have been much more difficult or impossible without the authorities available under the Act?
17. The Act supplemented the government's authority to freeze and forfeit assets of suspected terrorists and terrorist organizations. Please provide the Committee with information related to the freezing or confiscation of such assets since the enactment of the Act.
 - A. Please identify all suspected terrorists or terrorist organizations whose assets the federal government has frozen or forfeited?
 - B. Please identify the specific authority, whether or not under the Act, that the federal government has asserted in freezing or forfeiting the assets of suspected terrorists or terrorist organizations.
 - C. Have any seizures or forfeitures been challenged in court?
 - D. What have been the results of any such challenges?
 - E. Has any court, pursuant to section 316 of the Act (codified at 18 U.S.C. § 983 note), admitted evidence that would otherwise be inadmissible in a forfeiture proceeding? If so, on what circumstances justified admitting such evidence in such cases?
18. Section 402 authorizes appropriations to triple the number of INS Border Patrol Agents and Inspectors in each state along the Northern Border, and also authorizes appropriations to provide necessary personnel and facilities to support such personnel.
 - A. How many additional Inspectors has the INS hired at the Ports of Entry along the Northern Border?
 - B. How many of those hires are working as Inspectors along the Northern Border at this time?

- C. By how many Inspectors has the total staffing at the ports along the Northern Border increased since September 11, 2001?
19. What technology improvements have been completed and what additional technology improvements are planned for FY2003 expenditures to improve Northern Border security?
20. Subtitle B of Title IV of the USA PATRIOT Act gives the Attorney General additional authority to detain certain suspected alien terrorists, and improves systems for tracking aliens entering and leaving the United States and for inspecting aliens seeking to enter the United States. Section 411 amends the Immigration and Nationality Act (INA) to broaden the scope of aliens ineligible for admission or deportable due to terrorist activities, and defines the terms "terrorist organization" and "engage in terrorist activity."
- A. Has the INS relied upon the definitions in section 411 of the Act to file any new charges against aliens in removal proceedings? If so, how many times has it used each provision?
- B. In your July 26, 2002 response, you stated that one alien had been denied admission under these new provisions. Have any aliens been denied admission under these grounds since that response?
- C. What effect have the amendments to the INA in section 411 of the Act had on ongoing investigations in the United States?
- D. Section 212(a)(3)(F) of the INA, as amended by section 411 of the Act, renders inadmissible any alien who the Attorney General determines has been associated with a terrorist organization and intends while in the United States to engage solely, principally, or incidentally in activities endangering the United States. Has the Attorney General made such a determination with respect to any alien thus far?
- E. Have there been any challenges to the constitutionality of the charges added to the INA by section 411 of the Act? If so, please identify the case(s) and the status of the proceedings.
21. Section 412 of the Act provides for mandatory detention until removal from the United States (regardless of relief from removal) of an alien certified by the Attorney General as a suspected terrorist or threat to national security. It also requires release of such alien after seven days if removal proceedings have not commenced, or if the alien has not been charged with a criminal offense. In addition, this section of the Act authorizes detention for additional periods of up to six months of an alien not likely to be deported in the reasonably foreseeable future if release will threaten our national security or the safety of the community or any person. It also limits judicial review to habeas corpus proceedings in the U.S. Supreme Court, the U.S. Court of Appeals for the District of Columbia, or any district court with jurisdiction to entertain a habeas corpus petition, and limits the venue of appeal of any final order by a circuit or district judge under section 236A of the INA to the U.S. Court of Appeals for the District of Columbia.
- A. At the time of your July 26, 2002 response, you had not used the authority in Section 412. Have you used the authority since that response? If so, please state:
- i. How many of the aliens for whom certifications have been issued have been removed?
 - ii. How many aliens for whom the Attorney General issued certifications are still detained? At what stage of the criminal or immigration proceedings are each of those cases?
 - iii. How many of the aliens who were certified have been granted relief? How many of those aliens are still detained?

- iv. Have any challenges to certifications under section 236A(a)(3) of the INA been brought in habeas corpus proceedings in accordance with section 236A(b)? If so, please identify the case(s) and the status of each proceeding.
 - v. Has the Attorney General released any aliens detained under section 236A because the alien was not charged with a criminal offense or placed into removal proceedings within seven days?
 - vi. How many non-certified aliens have received relief from removal and remain detained longer than 6 months since such relief was ordered?
22. On September 20, 2001, the INS issued an interim rule amending the period of time that an alien may be detained while the agency assesses whether to issue a Notice to Appear (NTA), placing the alien in immigration proceedings. Prior to amendment, the INS was required to issue an NTA within 24 hours of the alien's arrest. As amended, the INS has 48 hours after an alien is arrested to decide whether to issue an NTA, "except in the event of an emergency or other extraordinary circumstance in which case a determination will be made within an additional reasonable period of time."
- A. What is the authority for the INS to detain an alien for longer than 48 hours without filing charges?
 - B. How many aliens have been detained for more than 48 hours without being charged under the authority in this regulation?
 - C. What is the longest period that an alien has been detained without being charged under the authority in this regulation?
 - D. Have any challenges to this regulation been brought in judicial proceedings? If so, please identify the case(s) and the status of each proceeding.
23. Since September 11, 2001, the government has required that certain non-citizens from certain Middle Eastern countries register with the INS (or its successor agency).
- A. How many terrorists or suspected terrorists have been investigated and/or detained as a result of the requirement that non-citizens register with the federal government?
 - B. What is the government's policy regarding whether non-citizens are able to have counsel present during the registration process, specifically during the interview?
 - C. If counsel are not permitted at any point, what is the government's authority for denying such right to counsel?
24. Since September 11, 2001, how many individuals have been deported from the United States? To what countries were those individuals deported? What was the racial and ethnic background of such individuals? For what reason were these individuals deported?

Attorney General's Investigative Guidelines

25. On May 14, 2002, the Department issued revised investigative guidelines that established procedures for the initiation of investigations by the Federal Bureau of Investigation ("Bureau").

- A. Why were the guidelines for General Crimes and Domestic Security Investigations revised when the apparent threat against the United States is a threat from foreign terrorist groups? Do these guidelines apply only to investigations of U.S. citizens? Are U.S. citizens not subject to the foreign intelligence investigative guidelines?
- B. The new guidelines allow FBI agents to attend a public event, such as a political demonstration or a religious service, and to use data mining services, provided doing so is for the purpose of preventing or detecting terrorism. How will it be determined that the purpose of attending the event or using the service is to prevent or detect terrorism? How does the amount of evidence establishing that predicate differ from the amount of evidence that would be sufficient to check out leads or open a preliminary inquiry? What level of predication is required to permit FBI agents to attend public events or to use data mining services?
- C. Since the issuance of these guidelines, how many religious sites (mosques, churches, temples, synagogues, etc.) have federal authorities entered in an official capacity without disclosing their identities? Please provide the total number of such sites and a breakdown of how many were affiliated with each particular type of site (mosque, church, temple, synagogue, etc.).

When agents visit religious sites pursuant to AG guidelines, what investigative tools are they permitted to use (i.e., wearing a wire, placing a listening device in the site)? If the information obtained from such visits is found unrelated to any criminal or terrorist investigation, when is such information destroyed and in what manner? Have, and if so provide details, any terrorism-related investigations or prosecutions resulted from such visits?

- D. Since the issuance of these guidelines, how many public meetings, and what types of such meetings (rallies, town halls), have federal authorities entered in an official capacity without disclosing their identities?

When agents visit public meetings pursuant to FBI guidelines, what investigative tools are they permitted to use (e.g., wearing a wire, placing a listening device in the meeting area)? If the information obtained from such visits is found unrelated to any criminal or terrorist investigation, when is such information destroyed and in what manner? Have, and if so provide details, any terrorism-related investigations or prosecutions resulted from such visits?

- E. Are FBI agents required to record in writing – before they use data mining techniques or attend a public event under the guidelines -- how such activity is for the purpose of detecting or preventing terrorism?
- F. The changes to the preliminary inquiry procedures extended the period that such an inquiry can remain open and allowed extensions for up to a year without notice to FBI Headquarters. In considering this change, did you find that your field agents had been reluctant to conduct preliminary inquiries because they could not keep them open long enough without burdensome approval requirements? What other problems did the 90-day limit present to agents? What other problems did requiring approval from Headquarters to continue a preliminary inquiry present to agents? How does Headquarters conduct important analysis of

information generated by a preliminary inquiry if Headquarters is unaware of the inquiry for a year?

- G. The Guidelines now permit a Special Agent in Charge to open a terrorism enterprise investigation without obtaining approval from FBI Headquarters. Instead, Headquarters must only be notified. What is contained in the required notice? Does the notice provide enough of a description of the evidence to permit FBI Headquarters to make an evaluation of the evidence and determine whether the investigation should continue or is it simply a formal notification that such an investigation has been opened and/or is continuing? Will the information in the notification be sufficient to use it to coordinate that investigation with others?
- H. Who at the Bureau is responsible for making and approving the decision for a field agent to enter a public place, and must such approval be in writing prior to entering the public place?
- I. After a field agent visits a public place or event, are any notes or other records of what he or she observed retained? If so, under what circumstances, for what reasons, and for how long are they retained? Under what circumstances is information related to protected 1st Amendment activity retained in FBI or DOJ files? Are any records retained if a preliminary inquiry is never opened?
- J. Who has access to any records and how does the FBI keep them secure?
- K. Given the transfer of a substantial number of agents into terrorism investigations, what training did those agents receive on the use of the Guidelines?
- L. With the FBI's authority to "data mine" under the Guidelines, many fear that the FBI will have too much information and that the Bureau does not currently have the tools necessary to make good use of intelligence or to keep vast amounts of information secure. What has been done and is being done to improve the Bureau's ability to interpret all of this new data? What security measures have been implemented to prevent unauthorized access to such data?
- M. Since the Guidelines permit the use of "publicly available" information, what efforts are going to be made to verify the accuracy of the data retrieved? Will agents be required to attempt to independently verify retrieved information for accuracy?
- N. What type of supervision will be required when agents use data mining? Will field agents be able to initiate data mining on their own or will they be required to obtain approval from a supervisor?
- O. What data mining services has the FBI used? How long will data obtained through data mining be retained and how will it be indexed?
- P. In its May 2002 Report on Financial Privacy, Law Enforcement, and Terrorism, the Prosperity Task Force on Information Exchange and Financial Privacy outlined many problems with sharing too much information with too many countries and without proper controls. How has the FBI protected against the wide distribution of information to too many countries without proper controls?
- Q. Since Syria, Cuba, Libya, Iran, Iraq, China, and others are members of Interpol and share in the international information exchange system, what procedures prevent these countries from receiving information on terrorist suspects who may be supported by participating countries?
- R. The Guidelines permit acceptance and retention of information "voluntarily provided by private entities."

What will the FBI do to ensure the accuracy of the information received from such sources? To what extent have such "private entities" been third parties as opposed to the specific individuals to whom the information pertained? How does the Department interpret "voluntarily" (e.g., does it mean the information was unsolicited, was provided pursuant to a government request, or was provided pursuant to a government subpoena?)?

- S. Where and how is information obtained through data mining stored? Is access to data obtained through data mining limited to those involved in a particular investigation? How is erroneous information corrected or purged, if at all? Has the Department issued written policies to provide guidance in this area? Does it plan to issue such policies?

Has, and from what companies, the Department purchased information or entered into contracts with data mining companies? To what extent and how will persons listed in such information be able to correct errors or inaccuracies?

- T. Is retained information reviewed at reasonable intervals to determine its continuing relevance to antiterrorism efforts? If so, who is responsible for performing such reviews?

Miscellaneous Authorities

26. There have been numerous reports that the Department of Justice has detained individuals as material witnesses, presumably pursuant to judicial orders under 18 U.S.C. § 3144, in connection with terrorism investigations. Please provide the Committee with the following information with respect to each such detainee since September 11, 2001: (1) the length of detention of each detainee; (2) the number of such detainees who either sought review of or filed an appeal from a detention order under 18 U.S.C. § 3145; and (3) the results of such review or appeal.
- A. Were these individuals given access to legal counsel? If not, why not?
- B. What is the percentage breakdown for the detainees in terms of national origin, race, and ethnicity?
- C. Please list the charges that the Department has brought against each such detainee.
- D. Please provide the legal basis for detaining those individuals who have been cleared of any connection with terrorism beyond the date of such clearance.
- E. Please provide a list of all requests by the government to seal proceedings in connection with any of the detainees and copies of any orders issued pursuant thereto.
27. On October 31, 2001, the Department of Justice promulgated an interim rule, with provision for post promulgation public comment, that requires the director of the Bureau of Prisons to monitor or review the communications between certain inmates and their lawyers for the purpose of deterring future acts that could result in death or serious bodily injury to persons or substantial damage to property that would entail the risk of death or serious bodily injury to persons. 66 Fed. Reg. 55062, 55066 (2001).
- A. How many inmates have been subject to the interim rule?
- B. The interim rule required prior written notification to an inmate and any attorneys involved "[e]xcept in the case of prior court authorization. 66 Fed. Reg. at 55066. Under this exception to the required notification, how many cases were there/are there where inmates and their attorneys were not notified that their communications were monitored?

- C. The interim rule prohibited disclosure of information prior to approval of disclosure by a federal judge, except where the person in charge of the monitoring determines that acts of violence or terrorism are imminent. How many times did the person in charge of the monitoring disclose information after approval by a federal judge? After a determination that acts of violence or terrorism are imminent?
 - D. How many post-promulgation comments were received by the Department of Justice?
 - E. Is the Department of Justice considering any revisions to the interim rule?
28. The Department of Defense has detained two United States citizens in military prisons in the United States as enemy combatants. These detentions have been challenged in court, where the Department of Justice has represented the Department of Defense. Has the Department of Justice received any information regarding the detention by the Department of Defense within the United States or abroad of any other United States citizens? Does the Department of Justice have any agreement, arrangement, or understanding, formal or informal, with the Department of Defense regarding the detention of United States citizens as enemy combatants?
29. FBI Director Robert Mueller announced the formation of “flying squads” that would be prepared to be deployed on short notice into terrorism investigations.
- A. Have these “flying squads” been formed?
 - B. How many agents are assigned to a flying squad?
 - C. What kind of training have the flying squad agents received?
 - D. Have they been deployed into investigations?
 - E. If so, how many times?
 - F. Did they prove to be a useful addition to the investigation to which they were deployed?
30. Does the FBI use, as one of its terrorism investigative tools, aircraft to conduct surveillance of various persons or locations? What type of information is sought using such surveillance?
31. Has the DOJ through any of its agencies formulated a policy position regarding criteria for establishing the authenticity of foreign government-issued identity cards since the passage of the USA PATRIOT Act? If so, please produce a copy of that position.
32. Has the DOJ through any of its agencies, including especially the INS, prepared or issued a policy with regard to security standards and acceptance of “Matricula Consulars” identity cards issued by foreign governments to persons who are residing in the United States but who may not be lawfully present in the United States? If so, has that policy been provided in writing to the Office of Management and Budget, the Secretary of State, or the Secretary of the Treasury? If such a policy has been prepared, please provide a copy to the Committee.
33. Regarding the FBI’s National Crime Information Database, has the Department lifted a requirement that the FBI ensure the accuracy and timeliness of information about criminals and crime victims before adding it to the

database? Please provide a copy of any memoranda pertaining to the requirement that was lifted.

34. Is the FBI ordering its field offices to ascertain the number of mosques and Muslims in their areas? Is the government seeking membership lists from mosques? If so, why? From how many mosques is the government seeking such lists? How, if at all, has the agency reassigned its agents as a result? How many investigations or prosecutions for terrorism as a result of these activities?
35. Is the Department assisting in the implementation of the Computer Assisted Passenger Prescreening System (CAPPS I or II), which would be used to screen airline passengers?
 - A. To what extent is the Department, or any of its components, providing information about specific persons for inclusion in CAPPS?
 - B. From what databases or other sources, including companies, does such information come from?
 - C. What checks are in place to ensure that the information is accurate and does not constitute inappropriate profiling?
 - D. In what manner are individuals afforded an opportunity to correct erroneous or inaccurate information?
36. "Operation Liberty Shield" involves stopping cars at airports, checking the identification of truckers who transport hazardous material on the highway, and monitoring Internet and financial transactions.
 - A. Please identify the specific authority on which "Operation Liberty Shield" was created and implemented.
 - B. What level of predication is required before an agent may monitor the Internet and financial transactions?
 - C. What terrorism-related investigations and/or prosecutions have resulted from Operation Liberty Shield?
37. There have been three successive FBI sweeps since September 11, 2001, to monitor, question, arrest, detain, or deport various immigrants. The first sweep focused on young Arab and Muslim males and occurred in the months following September 11, 2001. The second sweep occurred in March 2002 and centered on thousands of individuals of Middle Eastern and South Asian heritage. The third sweep occurred in March 2003 as part of "Operation Liberty Shield." Please provide information on each of these operations.
 - A. When were the plans for such operations first considered by the Department?
 - B. What guidance was provided to U.S. Attorney's Offices and/or FBI offices with respect to questions that should be asked of such immigrants?
 - C. What has been the outcome of each of these plans? Please provide details such as how many were monitored, questioned, arrested, detained, or deported for each operation. Please provide details as to the number and types of terrorism-related investigations and prosecutions that have resulted from these sweeps.
 - D. Please identify the specific authority relied on to create and implement these plans, including the monitoring, questioning, arrests, detentions, and deportations.
38. In August 2002, a Justice Department rule went into effect giving authority to state and local police to enforce

immigration laws.

- A. Which state and local governments are using this new authority and to what extent?
- B. How many immigration violations were found as a result of state and local law enforcement participation under this new authority?
- C. Have any persons or groups affected by this new authority (e.g. immigrants, civil rights organizations) submitted any formal complaints to the Department (including the Inspector General) regarding this authority. If so, please provide details.

Please forward your responses to these questions to the Committee at the address on this letter not later than Tuesday, May 13, 2003. Please contact Committee Chief of Staff and General Counsel Phil Kiko at 202-225-3951 or Minority Counsel Sampak Garg at 202-225-6906 if you have any questions about this request.

Sincerely,

F. JAMES SENSENBRENNER, JR.
Chairman

JOHN CONYERS, JR.
Ranking Member

FJS/pgk

FEDERAL BUREAU OF INVESTIGATION

DRAFT

Precedence: ROUTINE

Date: 12/19/2001 1/18/2002

To: Laboratory

Attn: All ITB Section Chiefs
All ITB Unit Chiefs
All ITB Supervisory Special Ag
Technical Supervisors
Technical Advisors
Chief Division Counsel (for

All Field Offices

information)

From: Laboratory
Investigative Technologies Branch
and
Office of the General Counsel

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Contact: [REDACTED]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 08-16-2005 BY 65179 DMH/CLS

CA# 05-CV-0845

Approved By:

[REDACTED]

Parkinson Larry R
Kelley Patrick W

[REDACTED]

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Drafted By:

[REDACTED]

lml

Case ID #: 66-HQ-19490

Title: TECHNICALLY TRAINED AGENT (TTA) PROGRAM;
"USA PATRIOT ACT"

Synopsis: This communication advises FBI Technically Trained Agents (TTAs) about relevant provisions in the USA Patriot Act.

Details: This communication is directed to FBI Technically Trained Agents (TTAs) and is intended to inform them about certain provisions in the recently-enacted antiterrorism USA Patriot Act ("Patriot Act" or "Act") (H.R. 3162), Public Law 107-56. The Patriot Act is a lengthy piece of legislation containing ten titles and numerous sections dealing with a broad array of antiterrorism provisions. Since many sections of the Act are not thought to be of interest to FBI TTAs, the information in this communication has been selected based on its perceived interest and value to TTAs. Full text of the Act can be obtained at [REDACTED]

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[REDACTED] www.access.gpo.gov/nara/index.html (then go to "Catalogue of Public Law, 107th Congress, Public Law-107-056").

Prior analyses regarding the Act have been provided and/or made available by the FBI Office of the General Counsel's National Security Law Unit (NSLU)(regarding FISA amendments and changes regarding the use of National Security Letters) and by the Department of Justice's Computer Crimes and Intellectual Property Section (CCIPS), (regarding certain amendments to Title III; the Electronic Communications Privacy Act of 1986 (ECPA); Rule 41,

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Federal Rules of Criminal Procedure (Fed. R. Crim. P.); and to the substantive criminal law DOJ.

[REDACTED] For those interested, review of the foregoing analyses is recommended since they afford greater elaboration upon many of the more important provisions in the Patriot Act.

The material set forth in the instant communication is offered only to present a brief synopsis of certain relevant provisions of the Act for TTAs. [REDACTED]

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Notwithstanding the Act's organization of the material, for ease of discussion, the information set forth is grouped topically with reference to investigative, legal, and/or technical categories familiar to TTAs. In some cases, the material included draws substantially (and often verbatim) from analysis previously made available by the CCIPS, especially with regard to Sections 216 and 217 of the Act.

At the end of this EC, in topic area 9, in-depth guidance is provided to TTAs regarding the new "reporting" requirements under Section 216 with respect to a law enforcement agency's installation and use of a pen register/trap and trace using its own device on a packet-switched data network of a provider of electronic communication service to the public.

The topic areas drawn from in the Act and dealt with in this communication are:

1. Foreign Intelligence Surveillance Act (FISA)

Roving Authority

Greater Duration of FISA Electronic Surveillance

Change in FISA Pen Register/Trap Trace Showing

Greater Disclosure of FISA Electronic Surveillance Authorized

Change in Certification for Issuance of National Security Letters; Reduction in Approval Level

Computer Trespass Exception to FISA

Immunity for Compliance with a FISA Wiretap

2. Title III

Changes in Disclosure of Title III Interception Information

Obtaining Voice Mail/Stored Voice Communications Via a Search Warrant Rather than Title III

Harmonization of Procedures for Obtaining Communications, etc. with Respect to the Cable Act

Computer Trespass Exception to Title III

3. Stored Wire and Electronic Communications and Transactional Record Access

Information Available Pursuant to Subpoena

Nationwide Search Warrants for Stored Electronic Communications under 18 U.S.C. 2703

Emergency Disclosures by Communications Providers

4. Pen Register and Trap and Trace

Using Pen/Trap Orders to Acquire Communications Traffic Information on Computer Networks

Nationwide Effect of Pen/Trap Orders

Reports for Installation and Use of Law Enforcement Pen/Trap Devices on Computer Networks

No Imposition of Additional Technical Obligations on Service Providers or Others

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5. Rule 41 Search Warrants

*Single-Jurisdiction Search Warrants for Terrorism
Authority for Delaying Notice of the Execution of a Warrant*

6. Civil Liability and Administrative Discipline for Certain Unauthorized Disclosures

7. Review of the Department of Justice

8. Congressional Support for Technology Centers; Task Forces; Role of Secret Service

*Development and Support of Cybersecurity Forensic Capabilities
Expansion of the National Electronic Crime Force Initiative
Extension of Secret Service Jurisdiction*

9. Section 216 Pen Register/Trap Trace Reporting Requirement

* * *

1. Foreign Intelligence Surveillance Act (FISA)

Roving Authority

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Section 206 of the Act amends FISA to afford "roving" electronic surveillance authority and service provider assistance under certain circumstances. The change is intended to be of assistance in coping with situations which arise when a FISA subject may be [REDACTED]

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[REDACTED] The change brought about by this section indicates that a generic assistance order may be issued to address such situations. This approach is authorized when the FISA Court finds that the actions of the FISA subject may have the effect of thwarting the identification of such person/service provider. Although somewhat different, the concept here of roving interception technical "assistance" has some analogy to the assistance provision in Title III at 18 U.S.C. 2518(11)(b) and (12). This provision will sunset December 31, 2005.

Greater Duration of FISA Electronic Surveillance

Under Section 207 of the Act, the duration of a FISA electronic surveillance order is extended for non-U.S. persons who are agents of a foreign power (e.g., an officer or employee of foreign powers or a member of international terrorist organizations). Initial FISA electronic surveillance orders for such persons are now authorized for 120 days rather than the current 90 days, and extensions are now authorized for one year rather than the current 90 days. This provision will sunset December 31, 2005. ~~This provision will sunset December 31, 2005.~~

Change in FISA Pen Register/Trap Trace Showing

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Section 214 of the Act simplifies the legal showing required to obtain a FISA pen register/trap trace order and expands the authority with respect to those subject to coverage. Now FISA pen register/trap trace orders can be obtained based upon a certification that the information likely to be obtained is foreign intelligence information not concerning a U.S. person or is relevant to an ongoing investigation to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a U.S. person is not conducted solely on the basis of activities protected by the 1st Amendment. A key aspect of the change is that the investigative effort need not be limited to a FISA subject per se or to the communication service used by such subject. Rather, under Section 214, the focus shifts to the likely relevance of the targeted communications to the types of investigations noted above. Thus, pen registers/trap traces with respect to persons in contact with a subject of such investigation can be authorized. This provision will sunset December 31, 2005.

Greater Disclosure of FISA Electronic Surveillance Authorized

Section 504 amends FISA, easing FISA electronic surveillance disclosure constraints, so as to permit those Federal officers conducting FISA electronic surveillance to acquire foreign intelligence information to consult with Federal law enforcement officers to coordinate efforts to investigate or protect against actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power; sabotage or international terrorism of a foreign power or an agent of a foreign power; or clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power. This change, along with others in the Act, removes barriers that heretofore had impeded appropriate sharing of such information with others with a clear need to know in the Government. Section 504, in concert with Section 218, also makes a change with respect to FISA's former requirement that foreign intelligence be "the" purpose (primary purpose) of the FISA surveillance. Now, the requirement is that foreign intelligence be a "significant purpose."

Change in Certification for Issuance of National Security Letters; Reduction in Approval Level

Section 505 of the Act changes the nature of the certification required for the issuance of National Security Letters (NSLs) under 18 U.S.C. 2709(b) and reduces the FBI approval level required for issuing such NSLs. NSLs are commonly used to obtain telephone toll and transactional records and subscriber information. Formerly, the issuance of NSLs was limited to investigations with respect to foreign counterintelligence. Now the nature of the certification required for issuing NSLs is that the information sought is relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a U.S. person is not conducted solely on the basis of activities protected by the 1st Amendment. An authorized investigation means an investigation authorized under the Attorney General Guidelines for FCI investigations.



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Formerly, under 18 U.S.C. 2709, the Director of the FBI was authorized to delegate the issuance of NSLs to a level "not lower than Deputy Assistant Director" (meaning, effectively, to the Assistant Director/Deputy Assistant Director in the NSD and CTD at FBIHQ, and to the Assistant Director-in-Charge level in New York, Los Angeles, and WFO). The Act now permits the Director to also delegate such authority to specifically designated Special Agents-in-Charge in various FBI field offices.

Computer Trespass Exception to FISA

Section 1003 exempts from the requirement of obtaining a FISA court order the act of governmental interception of a computer trespasser's (e.g., "hacker's") unlawful communications transmitted to, through, or from a protected computer, when the interception is pursuant to valid computer owner consent, as now specified under 18 U.S.C. 2511(2)(i). This provision applies where a hacker or similar person accesses the "protected computer" (as that term is defined in 18 U.S.C. 1030) of another in certain situations without authorization and thus without a reasonable expectation of privacy. The section mirrors a comparable amendment made to Title III in Section 217 of the Act. (See Section 217 below for greater explanation.)

Immunity for Compliance with a FISA Wiretap

Section 225 of the Act amends FISA to specify that no cause of action shall lie in any court against a provider of wire or electronic communication service, landlord, custodian, or other person that furnishes any information, facilities, or technical assistance in accordance with a court order or request for emergency assistance under FISA. This provision mirrors a similar provision in Title III under 18 U.S.C. 2511(a)(ii), and is intended to remove any reticence that service providers and others might have in affording necessary FISA assistance to the Government owing to fears about potential civil causes of action being filed against them. This provision will sunset December 31, 2005.

2. Title III

Changes in Disclosure of Title III Interception Information

Section 203(b) of the Act amends Title III's disclosure provisions under 18 U.S.C. § 2517. This section now permits an investigative or law enforcement officer or attorney for the Government who has lawfully intercepted communications or obtained evidence derived therefrom to disclose such contents to any other Federal law enforcement, intelligence, protective, immigration, national defense, or national security official to the extent that such contents include foreign intelligence or counterintelligence (as defined in Section 3 of the National Security Act of 1947 (50 U.S.C. 401a)) or foreign intelligence information (as defined in subsection (19) of section 2510 of Title 18) to assist the official who receives that information in the performance of his official duties. Any Federal official receiving information pursuant to this provision may use the information only as necessary in the conduct of that person's official duties, subject to limitations on the unauthorized disclosure of such information. Under Section 203, the Attorney General is required to establish procedures for disclosure of such information that identifies a United States person, as defined in section 101 of FISA (50 U.S.C. 1801). Section 203(a) makes similar changes with respect to disclosure of grand jury information protected under Rule 6(e), Fed. R. Crim. P. This provision will sunset on December 31, 2005.

Obtaining Voice Mail/Stored Voice Communications via a Search Warrant Rather than Title III

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Section 209 of the Act amends 18 U.S.C. §§ 2510 and 2703 to specify that stored wire communications are to be treated under the same rules applicable to stored electronic communications. Such stored wire communications can now be obtained from an electronic communications service provider using procedures set out in section 2703 (such as a search warrant), rather than arguably having to resort to a Title III court order. The Section 209 amendment does not apply to stored voice messages in the possession of an end-user person, such as those stored on an answering machine in a subject's home. Such non-service provider stored wire communications also remain outside the reach of Title III. This provision enacted in Section 209 will sunset on December 31, 2005.

Harmonization of Procedures for Obtaining Subscriber Communications, Records, and Information with Respect to the Cable Act

Section 211 amends the Communications Act of 1934 and the Cable Communications Policy Act of 1984 ("Cable Act")(47 U.S.C. § 551) to remove an apparent statutory conflict between provisions in the Cable Act and those set forth under Title III and the ECPA with respect to law enforcement obtaining a cable subscriber's communications, records, and information pertaining to such subscriber's telecommunications and/or Internet services. Prior to the Act's amendment, the Cable Act contained unworkable (and arguably unintended) provisions regarding law enforcement's obtaining a cable subscriber's communications, records, and information from the cable company as to telecommunications and/or Internet services offered by the cable company. Procedures under the Cable Act had most clearly been intended to protect subscriber privacy and information concerning cable video programming viewed by the subscriber. Section 211 makes it clear that, when a cable company offers services comparable to those offered by a telephone company or an ISP, the existing statutory provisions in Title III and the ECPA exclusively apply with respect to law enforcement's obtaining subscriber communications, records, and information in the cable company's control.

Computer Trespass Exception to Title III

Section 217 exempts from the requirement of obtaining a Title III court order the act of governmental interception of a computer trespasser's (e.g., "hacker's") communications transmitted to, through, or from a protected computer, when the interception is pursuant to valid computer owner consent, as now specified under 18 U.S.C. 2511(2)(i). This provision applies where a hacker or similar person accesses the "protected computer" (as that term is defined in 18 U.S.C. 1030) of another in certain situations without authorization and thus without a reasonable expectation of privacy. Because network service providers often lack the expertise, equipment, or financial resources required to monitor computer attacks themselves, in the past they commonly have had no effective way to exercise their rights to protect themselves from unauthorized attackers. Although the wiretap statute allows computer owners to monitor the activity on their machines to protect their rights and property, until Section 217 of the Act was enacted it was unclear whether computer owners could obtain the assistance of law enforcement in conducting such monitoring. This lack of clarity prevented law enforcement from assisting victims in taking natural and reasonable steps in their own defense that would be entirely legal in the physical world.

To correct this problem, the amendments in Section 217 of the Act allow victims of computer attacks to authorize persons "acting under color of law" to monitor trespassers on their computer systems. Before monitoring can occur, however, four requirements must be met under revised Section 2511(2). First, the owner or operator of the protected computer must

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authorize the interception of the trespasser's communications on the protected computer. Second, the person acting under color of law who intercepts the communication must be lawfully engaged in an investigation applicable to such violation. Both criminal and intelligence investigations qualify, but the authority to intercept ceases at the conclusion of the investigation. Third, the person acting under color of law must have reasonable grounds to believe that the contents of the computer trespasser's communication to be intercepted will be relevant to the investigation. Fourth, the interception must be such that it does not acquire communications other than those transmitted to or from the computer trespasser. Thus, this section would only apply where the interception was effected such as to prevent the interception of communications of non-consenting users who are authorized to use the computer. The definition of computer trespasser explicitly excludes any person "known by the owner or operator of the protected computer to have an existing contractual relationship with the owner or operator for access to all or part of the computer." 18 U.S.C. § 2510(21). This provision will sunset December 31, 2005.

3. Stored Wire and Electronic Communications and Transactional Record Access

Information Available Pursuant to Subpoena

Section 210 of the Act amends title II of the ECPA, at 18 U.S.C. 2703(c), by updating and expanding the list and types of subscriber information and records law enforcement may obtain with a subpoena. Revised subsection 2703(c)(2) now includes "records of [Internet service] session times and durations," as well as "any temporarily assigned network address." In the Internet context, such records include the Internet Protocol (IP) address assigned by the service provider to the customer for a particular session, as well as the remote IP address from which a customer connects to the service provider. Obtaining such records will make the process of identifying computer criminals and tracing their Internet communications faster and easier. In addition, the amendment specifies that a subpoena may be used to obtain the "means and source of payment" that a customer uses to pay for service with a service provider, "including any credit card or bank account number." Such information will prove particularly valuable in identifying the users of Internet services where a service provider does not verify its users' biographical information. The amendment adds to the subscriber information and records currently available pursuant to service of a subpoena (subscriber name, address, local and long distance telephone toll billing records, telephone number or other subscriber number or identity, length of service, and types of services utilized).

Nationwide Search Warrants for Stored Electronic Communications under 18 U.S.C. 2703

Section 220 of the Act amends 18 U.S.C. 2703 and 2711 so as to permit investigators to obtain and use search warrants authorized under section 2703(a) to acquire stored electronic communications (and, under Section 209 of the Act, stored wire communications) and records located outside of the district in which the court is located. This important change in the court's jurisdictional reach, giving search warrants authorized by the court under section 2703(a) national reach, puts search warrants on a comparable footing with the nationwide reach of federal grand jury subpoenas and court orders authorized under section 2703(d). This change enables courts with jurisdiction over investigations to authorize directly the search and seizure of stored wire and electronic communications and records located outside of the district in which the court is located; and it eliminates the necessity of having to obtain the additional involvement of agents, prosecutors, and judges in outside judicial districts, especially those in districts where major ISPs are located. This provision will sunset December 31, 2005.

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Emergency Disclosures by Communications Providers

Section 212 of the Act amends 18 U.S.C. 2702(b)(6) to permit, but not require, a service provider to disclose to law enforcement either content or non-content customer records in emergencies involving an immediate risk of death or serious physical injury to any person. This voluntary disclosure does not create any affirmative obligation on the service provider to review customer communications in search of such imminent dangers.

Section 212 of the Act also amends the ECPA by allowing service providers to disclose information to protect *their* rights and property. It accomplishes this change by two related sets of amendments. First, amendments to 18 U.S.C. 2702 and 2703 simplify statutory treatment of voluntary disclosures by service providers by moving all such provisions to 2702. Thus, section 2702 now regulates all permissive disclosures (of content and non-content records alike), while section 2703 covers only compulsory disclosures by service providers. Second, an amendment to new subsection 2702(c)(3) clarifies that service providers *do* have the statutory authority to disclose non-content records to protect their rights and property. Prior to the Act, 2703 did not expressly permit a provider to voluntarily disclose *non-content* records (such as a subscriber's login records) to law enforcement for purposes of self-protection even though they could disclose the content of communications for this reason. These changes will sunset December 31, 2005.

4. Pen Register and Trap and Trace

Section 216 of the Act updates the pen register/trap trace ("pen/trap") statute in three important ways: (1) the amendments clarify that law enforcement may use pen/trap orders to acquire non-content communications traffic information transmitted over the Internet and other computer networks; (2) pen/trap orders issued by federal courts now have nationwide effect; and (3) law enforcement authorities must file a special report with the court whenever they use a pen/trap order to install their own pen/trap device [redacted] on a packet-switched data network of a provider of electronic communication service to the public.

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Using Pen/Trap Orders to Acquire Communications Traffic Information on Computer Networks

Section 216 of the Act amends 18 U.S.C. 3121, 3123, 3124, and 3127 to clarify that the pen/trap statute applies to a variety of communications technologies. References to the target "line," for example, are revised to encompass a "line or other facility." Such a facility might include, for example, a cellular telephone number/service; a specific cellular telephone identified by its electronic serial number (ESN); an Internet user account or e-mail address; or an Internet Protocol address, port number, or similar computer network address or range of addresses. In addition, because the law now clearly takes into account a wide variety of facilities, amendments to section 3123(b)(1)(C) allow applicants for pen/trap orders to submit a description of the communications traffic information to be acquired based upon any of these or other identifiers.

Moreover, the amendments clarify that pursuant to orders for the installation and use of pen/trap devices law enforcement may obtain any non-content information [redacted] [redacted] utilized in the processing and transmitting of wire and electronic communications. [redacted]

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[redacted] Pen/trap orders cannot, however, authorize the interception of the content of a communication, [redacted]

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example) non-content addressing ("to" and "from" or just "to") information over or through (what type of service): (Email/web etc.) ports, and whatever else the agency **would typically capture** [redacted] as a record of what had been done technically in the "settings" or "filters." In addition, when any changes to the settings, etc. are made, the record must include what the changes were (of course, along with the date/time and the name of the person(s) involved).

- As to subsection (iv), the record must identify:

The information which has been collected by the device. This information would **reflect** [redacted] the original (intelligible) evidentiary CD product that was obtained (e.g., the depiction of the "to" "from" information, "time," "duration," "port number," "any data acquired, etc.). [redacted]

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Section 216 requires that "[t]o the extent that the pen register or trap and trace device can be set automatically to record this information electronically, the record shall be maintained electronically throughout the installation and use of such device." In short, if the law enforcement device can be configured electronically to automatically record the information noted above it must be done.

Once recorded, and maintained, the information must (shall) be provided (a) ex parte and (b) under seal to the court (c) within 30 days after the termination of the order (including any extension thereof). **The LAB believes that it** [redacted] **should be** the responsibility of the case agent, [redacted] to [redacted], submit the recorded information to [redacted] the AUSA handling the case. **who, in turn, will submit it to the magistrate judge who granted the original order.** [redacted]

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A sample reporting format (below) is attached to aid in the reporting requirement as to subsections (i)-(iii). Obviously, as to subsection (iv), the information collected by the pen register or trap and trace device must be recorded (typically on a CD) and submitted to the court along with the foregoing information.

LEAD(s):

Set Lead 1:

ALL RECEIVING OFFICES

None. For information only.

CC: [redacted]

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/19/2001

To: Laboratory

All Field Offices

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Attn: All ITB Section Chiefs
All ITB Unit Chiefs
All ITB Supervisory Special Agents
Technical Supervisors
Technical Advisors

From: Laboratory

Investigative Technologies Branch

Contact: [REDACTED]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 08-16-2005 BY 65179 DMH/CLS
CA# 05-CV-0845

Approved By:

Simons Allyson A

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Drafted By:

[REDACTED] lml

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Case ID #: 66-HQ-19490

Title: TECHNICALLY TRAINED AGENT (TTA) PROGRAM;
"USA PATRIOT ACT"

Synopsis: This communication advises FBI Technically Trained Agents (TTAs) about relevant provisions in the USA Patriot Act.

Details: This communication is directed to FBI Technically Trained Agents (TTAs) and is intended to inform them about certain provisions in the recently-enacted antiterrorism USA Patriot Act ("Patriot Act" or "Act") (H.R. 3162), Public Law 107-56. The Patriot Act is a lengthy piece of legislation containing ten titles and numerous sections dealing with a broad array of antiterrorism provisions. Since many sections of the Act are not thought to be of interest to FBI TTAs, the information in this communication has been selected based on its perceived interest and value to TTAs. Full text of the Act can be obtained at www.access.gpo.gov/nara/index.html. Then go to "Catalogue of Public Law, 107th Congress, Public Law-107-056."

Prior analyses regarding the Act have been provided and/or made available by the FBI Office of the General Counsel's National Security Law Unit (regarding FISA amendments and changes regarding the use of National Security Letters) and by the Department of Justice's Computer Crimes and Intellectual Property Section (CCIPS), (regarding certain amendments to Title III; the Electronic Communications Privacy Act of 1986 (ECPA); Rule 41, Federal Rules of Criminal Procedure (Fed. R. Crim. P.); and to the substantive criminal law). For those interested, review of the foregoing analyses is recommended since they afford greater elaboration upon many of the more important provisions in the Patriot Act.

The material set forth in the instant communication is offered only to present a brief synopsis of certain relevant provisions of the Act for TTAs. Notwithstanding the Act's organization of the material, for ease of discussion, the information set forth is grouped topically

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with reference to investigative, legal, and/or technical categories familiar to TTAs. In some cases, the material included draws substantially (and often verbatim) from analysis previously made available by the CCIPS, especially with regard to Sections 216 and 217 of the Act.

At the end of this EC, in topic area 9, in-depth guidance is provided to TTAs regarding the new "reporting" requirements under Section 216 with respect to a law enforcement agency's installation and use of a pen register/trap and trace using its own device on a packet-switched data network of a provider of electronic communication service to the public.

The topic areas drawn from in the Act and dealt with in this communication are:

1. Foreign Intelligence Surveillance Act (FISA)

Roving Authority

Greater Duration of FISA Electronic Surveillance

Change in FISA Pen Register/Trap Trace Showing

Greater Disclosure of FISA Electronic Surveillance Authorized

Change in Certification for Issuance of National Security Letters; Reduction in Approval Level

Computer Trespass Exception to FISA

Immunity for Compliance with a FISA Wiretap

2. Title III

Changes in Disclosure of Title III Interception Information

Obtaining Voice Mail/Stored Voice Communications Via a Search Warrant Rather than Title III

Harmonization of Procedures for Obtaining Communications, etc. with Respect to the Cable Act

Computer Trespass Exception to Title III

3. Stored Wire and Electronic Communications and Transactional Record Access

Information Available Pursuant to Subpoena

Nationwide Search Warrants for Stored Electronic Communications under 18 U.S.C. 2703

Emergency Disclosures by Communications Providers

4. Pen Register and Trap and Trace

Using Pen/Trap Orders to Acquire Communications Traffic Information on Computer Networks

Nationwide Effect of Pen/Trap Orders

Reports for Installation and Use of Law Enforcement Pen/Trap Devices on Computer Networks

No Imposition of Additional Technical Obligations on Service Providers or Others

5. Rule 41 Search Warrants

Single-Jurisdiction Search Warrants for Terrorism

Authority for Delaying Notice of the Execution of a Warrant

6. Civil Liability and Administrative Discipline for Certain Unauthorized Disclosures

7. Review of the Department of Justice

8. Congressional Support for Technology Centers; Task Forces; Role of Secret Service

Development and Support of Cybersecurity Forensic Capabilities

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*Expansion of the National Electronic Crime Force Initiative
Extension of Secret Service Jurisdiction*

9. Section 216 Pen Register/Trap Trace Reporting Requirement

* * *

1. Foreign Intelligence Surveillance Act (FISA)

Roving Authority

Section 206 of the Act amends FISA to afford "roving" electronic surveillance authority and service provider assistance under certain circumstances. The change is intended to be of assistance in coping with situations which arise when a FISA subject may be [REDACTED]

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[REDACTED] The change brought about by this section indicates that a generic assistance order may be issued to address such situations. This approach is authorized when the FISA Court finds that the actions of the FISA subject may have the effect of thwarting the identification of such person/service provider. Although somewhat different, the concept here of roving interception technical "assistance" has some analogy to the assistance provision in Title III at 18 U.S.C. 2518(11)(b) and (12). This provision will sunset December 31, 2005.

Greater Duration of FISA Electronic Surveillance

Under Section 207 of the Act, the duration of a FISA electronic surveillance order is extended for non-U.S. persons who are agents of a foreign power (e.g., an officer or employee of foreign powers or a member of international terrorist organizations). Initial FISA electronic surveillance orders for such persons are now authorized for 120 days rather than the current 90 days, and extensions are now authorized for one year rather than the current 90 days. This provision will sunset December 31, 2005. This provision will sunset December 31, 2005.

Change in FISA Pen Register/Trap Trace Showing

Section 214 of the Act simplifies the legal showing required to obtain a FISA pen register/trap trace order and expands the authority with respect to those subject to coverage. Now FISA pen register/trap trace orders can be obtained based upon a certification that the information likely to be obtained is foreign intelligence information not concerning a U.S. person or is relevant to an ongoing investigation to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a U.S. person is not conducted solely on the basis of activities protected by the 1st Amendment. A key aspect of the change is that the investigative effort need not be limited to a FISA subject per se or to the communication service used by such subject. Rather, under Section 214, the focus shifts to the likely relevance of the targeted communications to the types of investigations noted above. Thus, pen registers/trap traces with respect to persons in contact with a subject of such investigation can be authorized. This provision will sunset December 31, 2005.

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term is defined in 18 U.S.C. 1030) of another in certain situations without authorization and thus without a reasonable expectation of privacy. The section mirrors a comparable amendment made to Title III in Section 217 of the Act. (See Section 217 below for greater explanation.)

Immunity for Compliance with a FISA Wiretap

Section 225 of the Act amends FISA to specify that no cause of action shall lie in any court against a provider of wire or electronic communication service, landlord, custodian, or other person that furnishes any information, facilities, or technical assistance in accordance with a court order or request for emergency assistance under FISA. This provision mirrors a similar provision in Title III under 18 U.S.C. 2511(a)(ii), and is intended to remove any reticence that service providers and others might have in affording necessary FISA assistance to the Government owing to fears about potential civil causes of action being filed against them. This provision will sunset December 31, 2005.

2. Title III

Changes in Disclosure of Title III Interception Information

Section 203(b) of the Act amends Title III's disclosure provisions under 18 U.S.C. § 2517. This section now permits an investigative or law enforcement officer or attorney for the Government who has lawfully intercepted communications or obtained evidence derived therefrom to disclose such contents to any other Federal law enforcement, intelligence, protective, immigration, national defense, or national security official to the extent that such contents include foreign intelligence or counterintelligence (as defined in Section 3 of the National Security Act of 1947 (50 U.S.C. 401a)) or foreign intelligence information (as defined in subsection (19) of section 2510 of Title 18) to assist the official who receives that information in the performance of his official duties. Any Federal official receiving information pursuant to this provision may use the information only as necessary in the conduct of that person's official duties, subject to limitations on the unauthorized disclosure of such information. Under Section 203, the Attorney General is required to establish procedures for disclosure of such information that identifies a United States person, as defined in section 101 of FISA (50 U.S.C. 1801). Section 203(a) makes similar changes with respect to disclosure of grand jury information protected under Rule 6(e), Fed. R. Crim. P. This provision will sunset on December 31, 2005.

Obtaining Voice Mail/Stored Voice Communications via a Search Warrant Rather than Title III

Section 209 of the Act amends 18 U.S.C. §§ 2510 and 2703 to specify that stored wire communications are to be treated under the same rules applicable to stored electronic communications. Such stored wire communications can now be obtained from an electronic communications service provider using procedures set out in section 2703 (such as a search warrant), rather than arguably having to resort to a Title III court order. The Section 209 amendment does not apply to stored voice messages in the possession of an end-user person, such as those stored on an answering machine in a subject's home. Such non-service provider stored wire communications also remain outside the reach of Title III. This provision enacted in Section 209 will sunset on December 31, 2005.

Harmonization of Procedures for Obtaining Subscriber Communications, Records, and Information with Respect to the Cable Act

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Section 211 amends the Communications Act of 1934 and the Cable Communications Policy Act of 1984 ("Cable Act") (47 U.S.C. § 551) to remove an apparent statutory conflict between provisions in the Cable Act and those set forth under Title III and the ECPA with respect to law enforcement obtaining a cable subscriber's communications, records, and information pertaining to such subscriber's telecommunications and/or Internet services. Prior to the Act's amendment, the Cable Act contained unworkable (and arguably unintended) provisions regarding law enforcement's obtaining a cable subscriber's communications, records, and information from the cable company as to telecommunications and/or Internet services offered by the cable company. Procedures under the Cable Act had most clearly been intended to protect subscriber privacy and information concerning cable video programming viewed by the subscriber. Section 211 makes it clear that, when a cable company offers services comparable to those offered by a telephone company or an ISP, the existing statutory provisions in Title III and the ECPA exclusively apply with respect to law enforcement's obtaining subscriber communications, records, and information in the cable company's control.

Computer Trespass Exception to Title III

Section 217 exempts from the requirement of obtaining a Title III court order the act of governmental interception of a computer trespasser's (e.g., "hacker's") communications transmitted to, through, or from a protected computer, when the interception is pursuant to valid computer owner consent, as now specified under 18 U.S.C. 2511(2)(i). This provision applies where a hacker or similar person accesses the "protected computer" (as that term is defined in 18 U.S.C. 1030) of another in certain situations without authorization and thus without a reasonable expectation of privacy. Because network service providers often lack the expertise, equipment, or financial resources required to monitor computer attacks themselves, in the past they commonly have had no effective way to exercise their rights to protect themselves from unauthorized attackers. Although the wiretap statute allows computer owners to monitor the activity on their machines to protect their rights and property, until Section 217 of the Act was enacted it was unclear whether computer owners could obtain the assistance of law enforcement in conducting such monitoring. This lack of clarity prevented law enforcement from assisting victims in taking natural and reasonable steps in their own defense that would be entirely legal in the physical world.

To correct this problem, the amendments in Section 217 of the Act allow victims of computer attacks to authorize persons "acting under color of law" to monitor trespassers on their computer systems. Before monitoring can occur, however, four requirements must be met under revised Section 2511(2). First, the owner or operator of the protected computer must authorize the interception of the trespasser's communications on the protected computer. Second, the person acting under color of law who intercepts the communication must be lawfully engaged in an investigation applicable to such violation. Both criminal and intelligence investigations qualify, but the authority to intercept ceases at the conclusion of the investigation. Third, the person acting under color of law must have reasonable grounds to believe that the contents of the computer trespasser's communication to be intercepted will be relevant to the investigation. Fourth, the interception must be such that it does not acquire communications other than those transmitted to or from the computer trespasser. Thus, this section would only apply where the interception was effected such as to prevent the interception of communications of non-consenting users who are authorized to use the computer. The definition of computer trespasser explicitly excludes any person "known by the owner or operator of the protected computer to have an existing contractual relationship with the owner or operator for access to all or part of the computer." 18 U.S.C. § 2510(21). This provision will sunset December 31, 2005.

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3. Stored Wire and Electronic Communications and Transactional Record Access

Information Available Pursuant to Subpoena

Section 210 of the Act amends title II of the ECPA, at 18 U.S.C. 2703(c), by updating and expanding the list and types of subscriber information and records law enforcement may obtain with a subpoena. Revised subsection 2703(c)(2) now includes "records of [Internet service] session times and durations," as well as "any temporarily assigned network address." In the Internet context, such records include the Internet Protocol (IP) address assigned by the service provider to the customer for a particular session, as well as the remote IP address from which a customer connects to the service provider. Obtaining such records will make the process of identifying computer criminals and tracing their Internet communications faster and easier. In addition, the amendment specifies that a subpoena may be used to obtain the "means and source of payment" that a customer uses to pay for service with a service provider, "including any credit card or bank account number." Such information will prove particularly valuable in identifying the users of Internet services where a service provider does not verify its users' biographical information. The amendment adds to the subscriber information and records currently available pursuant to service of a subpoena (subscriber name, address, local and long distance telephone toll billing records, telephone number or other subscriber number or identity, length of service, and types of services utilized).

Nationwide Search Warrants for Stored Electronic Communications under 18 U.S.C. 2703

Section 220 of the Act amends 18 U.S.C. 2703 and 2711 so as to permit investigators to obtain and use search warrants authorized under section 2703(a) to acquire stored electronic communications (and, under Section 209 of the Act, stored wire communications) and records located outside of the district in which the court is located. This important change in the court's jurisdictional reach, giving search warrants authorized by the court under section 2703(a) national reach, puts search warrants on a comparable footing with the nationwide reach of federal grand jury subpoenas and court orders authorized under section 2703(d). This change enables courts with jurisdiction over investigations to authorize directly the search and seizure of stored wire and electronic communications and records located outside of the district in which the court is located; and it eliminates the necessity of having to obtain the additional involvement of agents, prosecutors, and judges in outside judicial districts, especially those in districts where major ISPs are located. This provision will sunset December 31, 2005.

Emergency Disclosures by Communications Providers

Section 212 of the Act amends 18 U.S.C. 2702(b)(6) to permit, but not require, a service provider to disclose to law enforcement either content or non-content customer records in emergencies involving an immediate risk of death or serious physical injury to any person. This voluntary disclosure does not create any affirmative obligation on the service provider to review customer communications in search of such imminent dangers.

Section 212 of the Act also amends the ECPA by allowing service providers to disclose information to protect *their* rights and property. It accomplishes this change by two related sets of amendments. First, amendments to 18 U.S.C. 2702 and 2703 simplify statutory treatment of voluntary disclosures by service providers by moving all such provisions to 2702. Thus, section 2702 now regulates all permissive disclosures (of content and non-content records

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alike), while section 2703 covers only compulsory disclosures by service providers. Second, an amendment to new subsection 2702(c)(3) clarifies that service providers *do* have the statutory authority to disclose non-content records to protect their rights and property. Prior to the Act, 2703 did not expressly permit a provider to voluntarily disclose *non-content* records (such as a subscriber's login records) to law enforcement for purposes of self-protection even though they could disclose the content of communications for this reason. These changes will sunset December 31, 2005.

4. Pen Register and Trap and Trace

Section 216 of the Act updates the pen register/trap trace ("pen/trap") statute in three important ways: (1) the amendments clarify that law enforcement may use pen/trap orders to acquire non-content communications traffic information transmitted over the Internet and other computer networks; (2) pen/trap orders issued by federal courts now have nationwide effect; and (3) law enforcement authorities must file a special report with the court whenever they use a pen/trap order to install *their own* pen/trap device [redacted] on a packet-switched data network of a provider of electronic communication service to the public.

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Using Pen/Trap Orders to Acquire Communications Traffic Information on Computer Networks

Section 216 of the Act amends 18 U.S.C. 3121, 3123, 3124, and 3127 to clarify that the pen/trap statute applies to a variety of communications technologies. References to the target "line," for example, are revised to encompass a "line or other facility." [redacted]

[redacted]

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[redacted] In addition, because the law now clearly takes into account a wide variety of facilities, amendments to section 3123(b)(1)(C) allow applicants for pen/trap orders to submit a description of the communications traffic information to be acquired based upon any of these or other identifiers.

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Moreover, the amendments clarify that pursuant to orders for the installation and use of pen/trap devices law enforcement may obtain any non-content information - [redacted] - utilized in the processing and transmitting of wire and electronic communications. [redacted]

[redacted] Pen/trap orders cannot, however, authorize the interception of the content of a communication, [redacted]

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[redacted] Agents and prosecutors with questions about whether a particular type of information constitutes content should contact the Office of Enforcement Operations in the telephone context [redacted] or the Computer Crime and Intellectual Property Section in the computer context [redacted]

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Further, because a pen/trap device [redacted] [redacted] Section 216 makes two other related changes. First, in recognition of the fact that pen/trap functions are commonly performed today by software instead of physical mechanisms, the amended statute allows the pen/trap device to be "attached or applied" to the target facility. Likewise, Section 216 revises the definitions of "pen register" and "trap and trace device" in section 3127 to include an intangible "process" (such as a software routine) which collects the same information as a physical device.

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